the weekly Standard

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A MOMENT OF TRUTH AT THE U.N.
Colin Powell

The Anti-Bully Crusade

by Matt Labash

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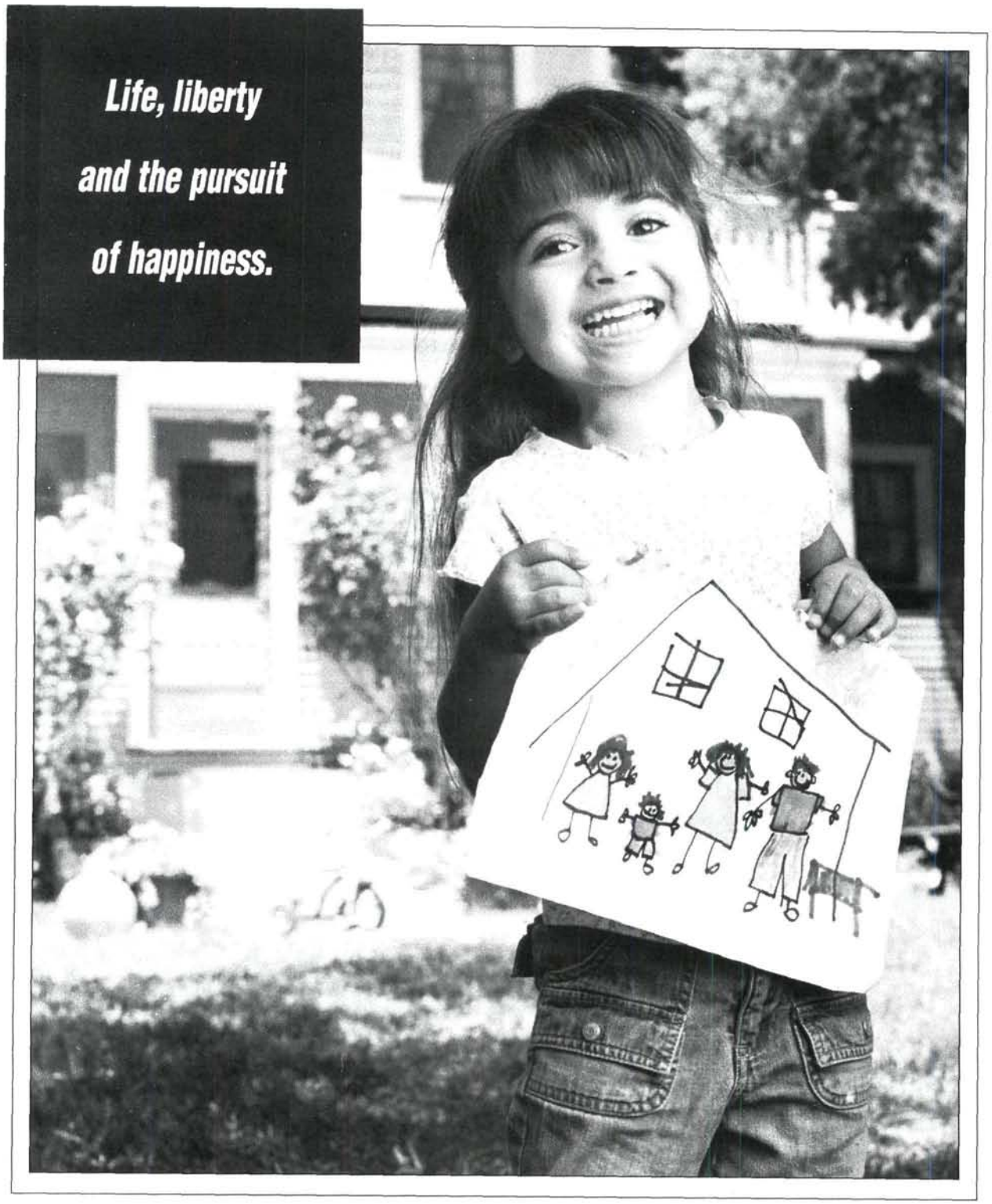

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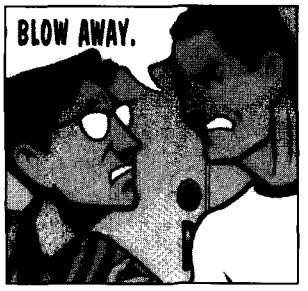

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Best Washington Press Release Ever

We're not making this up. We couldn't make this up. It moved on the PR wire last Friday, February 14. And with its deft combination of inside-Washington tropes—from the paranoid, penny-ante partisanship to the hey-look-at-me self-promotion—we think this may qualify as, yes, the best Washington press release ever. Our very favorite parts (it's hard to choose) are the tag line at the end, where you learn which PR firm has undertaken the task of publicizing the obsessions of a third-tier Clintonite (namely, his own firm); and that line about how Clinton claimed to run 25-30 miles per week. Without further ado:

EX-CLINTON AIDE SLAMS D.C. RENAISSANCE HOTEL'S NEW SPORTS BAR AS DEIFICATION OF BUSH, ANTI-CLINTON

WASHINGTON, Feb. 14 / U.S. Newswire/—Ex-Clinton political aide Bob Weiner is slamming the D.C. downtown Renaissance Hotel's new presidential photo sports bar as a "deification of Bush, anti-Clinton, and thereby partisan."

Weiner, who served as Public Affairs Director for the White House Drug Czar and was a White House Athletic Center board member while Clinton was President, visited the new bar yesterday in advance of today's (Friday) opening to see how the presidential sports pictures looked and to offer a photo of Clinton leading a group of runners, including DC Delegate Eleanor Holmes Norton. "I expected to join in the celebration," Weiner stated.

Instead, Weiner said, "I saw an entrance corridor of four dramatic George W. Bush photos, another Bush photo on a wall, and one Clinton photo—buried in a corner inside the actual bar, of him playing pool. To me, and to several hotel employees with whom I spoke, the Bush photos were disproportionate considering that Clinton is our most recent and an eight-year president. The one Clinton photo denigrates the spirit of enthusiastic leadership he conveyed, and the photos of everyone else—including Reagan and Bush I both riding horses over fences—show vitality and high adventure."

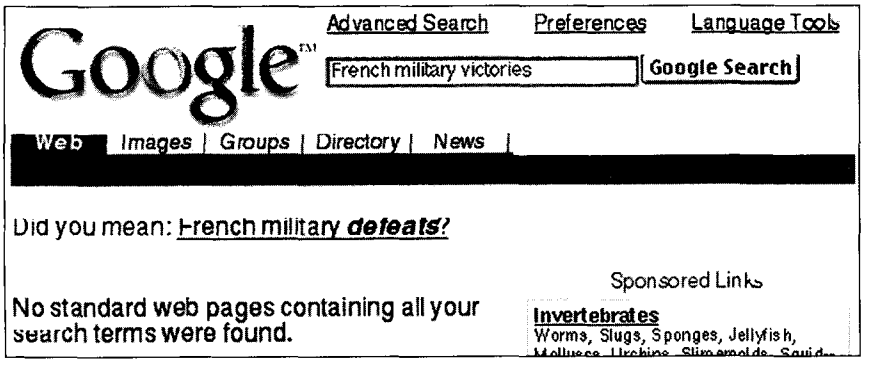
"Clinton's sports love, as everyone knows, was running—he told me himself that he ran 25-30 miles a week. We offered the Renaissance a beautiful picture—free—of him running, poster sized, and even offered to quickly get a comparable outstanding frame from the National Gallery so it would match the other quite wonderful photos of the many other presidents the exhibit has. The exhibit manager, Bill Englar, the hotel's Food and Beverage Manager, responded, 'I paid a contractor, they organized it, and there's no space.' I responded with what I felt was obvious—'We are not charging anything, doesn't your contractor work for you, and here or here or here (pointing) there is lots of space.' He then asked for a better quality photo, and I showed him a clear original, which could be quickly re-poster-sized. But it was clear no response by me would be adequate, especially since he would not even look at our photo when asked several times, until I physically held it up in front of him."

"My worst fear is that because of Renaissance being a Marriott hotel and Marriott owners' history of strong Republican allegiance, there is a strong partisan and anti-Clinton bent in an exhibit that is open to all DC. I know that the hotel does not only want Republican patrons, so it is my hope they will balance the exhibit and include photos like the one we've suggested to show Clinton's genuine enthusiasm and the mantle of leadership he epitomized in available sports photos," Weiner concluded.

(Source: Robert Weiner Associates) ♦

Frog Mocking

Thanks to all the readers who e-mailed us anti-French jokes last week. They weren't always subtle, but then, neither are the French these days. The finest of the lot was the Google parody, reproduced at left. ♦



Korea Budget Mysteries

Dealing with the war on terrorism, the upcoming conflict with Iraq, and French perfidy is plenty for any country to handle at one time. So it's probably no surprise that Washington

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hasn't gotten its act together when it comes to North Korea. Nevertheless, not having a game plan for addressing that crisis shouldn't mean that we do stupid things in the meantime.

Last week, Congress finished work on the omnibus appropriations act. Buried in the conference report were two matters of no small import when it comes to North Korea. The first was $5 million to keep alive the Korean Peninsula Energy Development Organization (KEDO). But KEDO's only job was to manage the construction of two new nuclear reactors in North Korea and the delivery of crude oil as part of the Clinton-era arrangement under which Pyongyang agreed to stop its illicit nuclear weapons activities. With North Korea having torn that agreement to shreds, you might think the only money KEDO needs would be enough to close its offices. Apparently not. At State Department insistence, KEDO is being kept alive—presumably because the folks in Foggy Bottom believe they will be cutting another 1994-like deal.

Also of note is the $10 million "earmarked" for assistance for North Korean refugees, which was in the bill when it went to the conference. Now it's gone. According to Hill staffers, the money was stripped from the bill at the request of Sen. Joe Biden, the ranking Democrat on the Foreign Relations Committee. Apparently, it's better to offer aid and comfort to a petty bureaucratic entity whose function is to facilitate a failed policy than to impoverished and starving individuals fleeing from the world's last outpost of unreconstructed Stalinism. ♦

Great Moments in Backpedaling

"We need a senator that understands the needs of our community, economy, culture and society. Mary Landrieu has worked close to the Hispanic Community. Immediately following the destruction of Hurricane Mitch in Nicaragua and Honduras, Mary Landrieu was the first representative of the U.S. to visit Honduras and involve herself with the relief effort for those affected by the hurricane and she obtained 11 million dollars in support of the affected families. *Mary Landrieu also supported the candidacy of the Honduran Miguel Estrada for the federal court of appeals.*" [our emphasis]

—from an ad on Spanish-language radio, supporting the reelection of Democratic senator Mary Landrieu, in Louisiana's December 2002 runoff

"My campaign ran an ad that was intended to convey only that I did not oppose his nomination. Instead, it read as if I had already decided to support him. Unfortunately, some of my supporters in the Hispanic community who helped us to produce this commercial misinterpreted my neutrality as a statement of support," she said. "I take personal responsibility for the error and I apologize to anyone who was misled by these ads."

—Sen. Landrieu, last week, explaining how she's ended up supporting her party's anti-Estrada filibuster ♦

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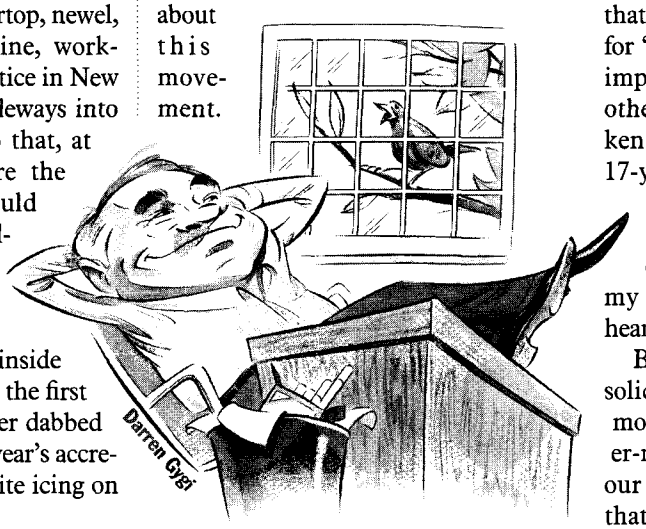
Casual

Ashes to Ashes

When I was growing up, every adult in my family smoked: both parents, all four grandparents, and every single uncle and aunt. It was Camels (and Dutch Masters "President" cigars) for the men, Viceroys for the women. There was an ashtray on every surface flat enough to accommodate one—coffee table, dinner table, end table, guéridon, countertop, newel, television, washing machine, workbench. Near the winter solstice in New England the sun comes sideways into the house all day long, so that, at holidays, any room where the adults were gathered would have a head-high, gunmetal-colored blanket of smoke so opaque that it would cast a line of shadow along the wall. We repainted the inside of the house every year, and the first fresh coat of white my father dabbed on would glow against the year's accretion of airborne tar like white icing on carrot cake.

Since smoking today is cast as an extremely bad choice that a certain rotten or pitiable type of person makes, it may be necessary to add that the adults in my family struck me growing up—and strike me still—as well above the mean in decency and well-adjustedness. They just did all their decent and well-adjusted things while smoking. All of them had started smoking at puberty (at the latest), and one could say of almost any of them what Louis MacNeice once said of W.H. Auden: "Everything he touches turns to cigarettes." My mother would make our favorite breakfasts coughing *hyerkh-kakh-hokh*, and my father would throw me endless batting practice with a stogie in his teeth, and my grandmother would rock my little sisters to sleep singing "You Ah My Sunshine . . . " with a Viceroy dangling out of the corner of her mouth, dribbling ash. Smoking has never struck me as evidence of either particular goodness or particular badness. It was just something adults *did*, like go to work in the morning, use deodorant, or talk about money.

But it would be an error of logic to assume that the crusade *against* smoking is therefore morally neutral as well. It is hard not to feel political qualms about this movement.



The intolerance of its adherents is a strike against it. Anti-smoking language—from euphemisms like "smoke-free environment" to bureaucratese like "please extinguish all smoking materials"—is a constant temptation to dishonesty. And dishonesty, plain-and-simple, is a cornerstone of much of the anti-smoking political platform—like the claim that early deaths from smoking are a burden on government treasuries rather than a windfall.

The worst thing about today's anti-smoking mania is that it emboldens even selfish and depraved people to declare themselves morally superior to people like my "Sunshine"-singing grandmother, on the flimsy grounds of: *Well, at least I don't smoke!* It replaces real morality with something that looks like morality but is actually valetudinarianism. So when the leading anti-smoking crusader in Montgomery County, Maryland, pled guilty to diddling a boy in the lavatory of the National Cathedral two years ago, I was not among those you could have knocked over with a feather.

Last month, I brought to a close, for the usual reasons, my own fairly illustrious smoking career with what I assume is the usual mix of pride and regret. I had no real craving for tobacco, but I did spin into an immobilizing, feel-like-sobbing depression the likes of which I hadn't felt since I was young, broke, and alone. Conquering that made me proud. And my children—who have been taught in school that "mortality" is merely a synonym for "emphysema"—are now under the impression I'll live longer. On the other hand, I somehow feel I've broken solidarity with the sophisticated 17-year-old smoking beauties I first started smoking to impress. Or maybe it's that I've broken solidarity with the person I was when my head was full of poetry and my heart of song.

But I certainly fear that I've broken solidarity with people like my grandmother, and transferred it to the power-mad moralizers who have devised our present anti-smoking regime—that I have, in fact, done something socially irresponsible, by giving aid and comfort to those who wish my fellow citizens ill and, as someone put it in another context, "hate our freedoms." It occurs to me that if not for this menace I would have quit smoking long ago. Once these heirs to the hypocritical church ladies of yore succeed in expunging cigarettes from the landscape, they'll simply move on to something else.

So, while I'm moderately happy to be free of smoking myself, it would be irresponsible not to remind people—particularly impressionable teenagers—that good people continue to do it, and that smoking marks one as a person of independence. Now more than ever, in fact. And what—all propaganda to the contrary notwithstanding—could be cooler than that?

Christopher Caldwell

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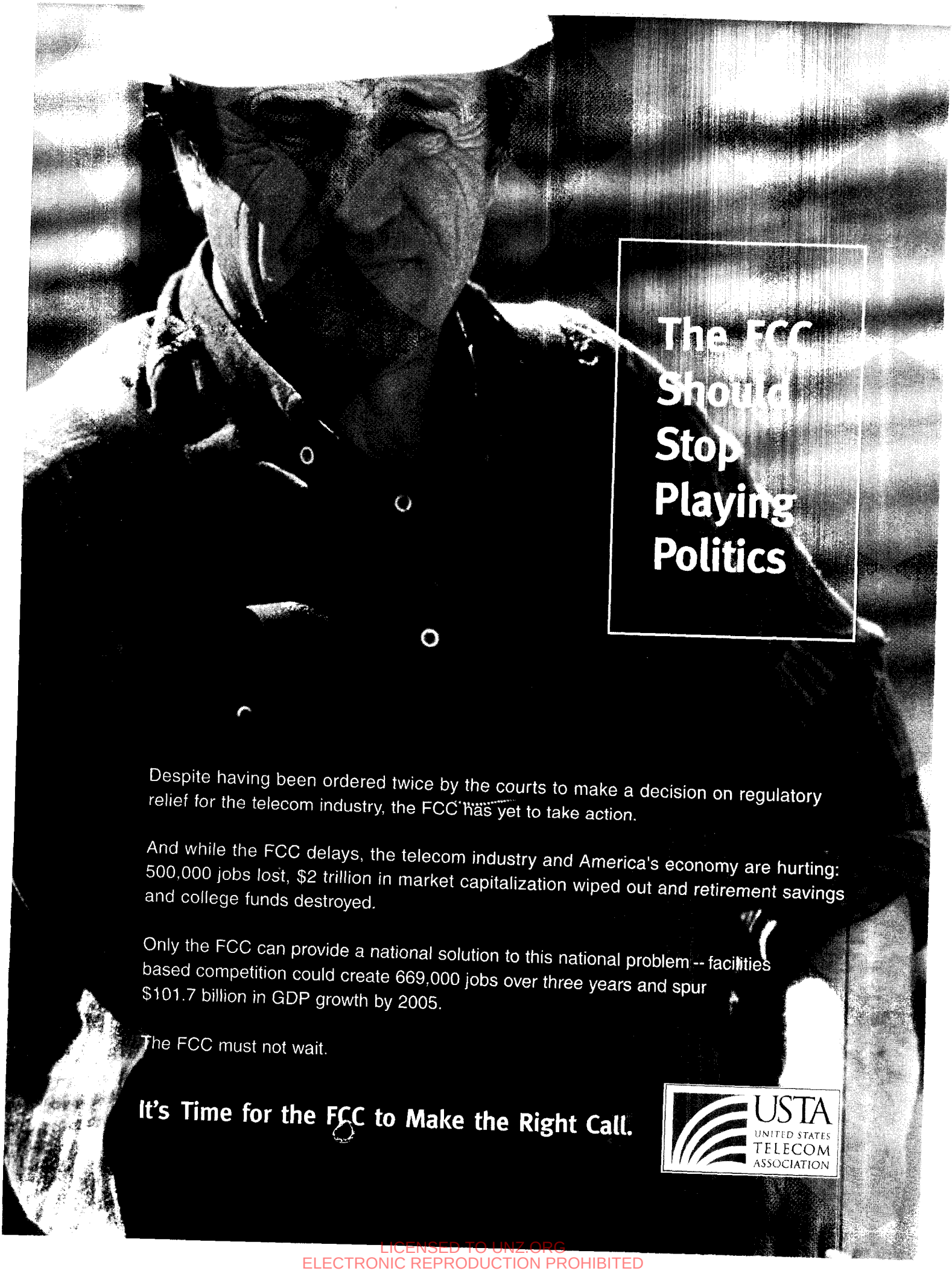

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Affirmative Reaction

Charles Krauthammer would prefer that the issue of racial and ethnic preferences be resolved through the political process ("How *Not* to Abolish Affirmative Action," Feb. 10). But we have a constitutional amendment (the Fourteenth) that deliberately—and, it ought to be added, with good reason—removes race-based decision-making from the political process. And we have a statute (Title VI of the Civil Rights Act of 1964) that says even more explicitly that institutions that get federal money cannot make race-based decisions. So the only way the Court can follow his prescription is by ignoring the law.

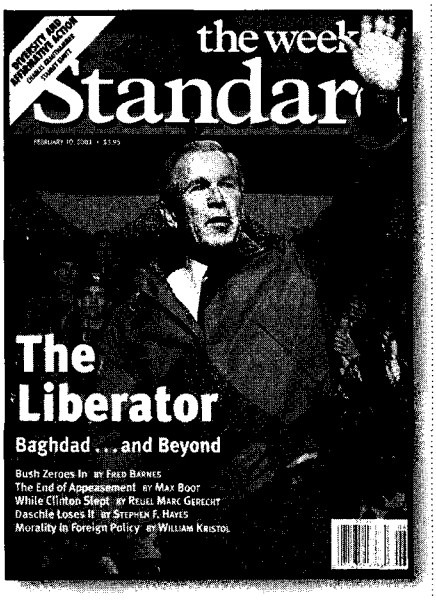
There is one more problem with leaving this issue to the political process, namely that it assumes that the propriety of racial and ethnic preferences will be openly debated before such discrimination takes place. In fact, the preferences are almost always kept hidden, denied, and lied about until someone brings a lawsuit or files a freedom-of-information request. So the Court would not only be shirking its legal duty if it declines to strike down the use of racial and ethnic preferences; it would be abandoning the issue not to the people but to the professoriate.

Roger Clegg
Center for Equal Opportunity
Sterling, VA

In the course of his otherwise excellent, thought-provoking essay on "How *Not* to Abolish Affirmative Action," Charles Krauthammer makes one assertion that does not stand up to, ahem, strict scrutiny. Referring to *Brown* v. *Board of Education*, Krauthammer writes that "*Brown* was right . . . because of the constitutional imperative to undo disenfranchisement."

Leaving aside the niggling point that the franchise itself (the right to vote) was not at issue, the more important error (of the head, not the heart) is the unmodified assertion that the case was decided correctly. I believe that is only partially true. The immediate result—the elimination of officially sanctioned segregation of schools—was certainly correct. But the legal reasoning was deeply flawed. *Brown* and its immediate progeny enshrined in constitutional jurisprudence both an expansive misreading of "equal protection" requirements and an unwarranted expansion of "substantive due process" rights. In doing so, it opened a Pandora's box of judicial activism that paid little or no heed to the explicit text of the Constitution.

Fourteen years ago, I began (but, with a new job calling me to a different city, did not finish) an independent study for noted scholar Walter Berns to see whether the justices in *Brown* might have been able to reach the morally necessary, desegregationist result by putting the focus not so much on "equal protection" as on fundamental liberties. My theory was that the Court could have dusted off



the constitutional clauses concerning "privileges" and "immunities," unreasonably treated as if they were virtually meaningless by the Slaughterhouse Cases of 1873, to rule that blacks were being denied essential privileges in an unconstitutional manner.

In a 1999 case, three of the Supreme Court's "conservative" members (including Antonin Scalia) joined the Court's liberal bloc to resurrect "privileges and immunities" as a meaningful constitutional clause. Had the Court done so back in 1954, it might have stopped the discrimination against black Americans without giving rise to bizarre judicial theories which, at their most asinine, sanctioned extensions of a "penumbra, formed by emanations" of the rights Justice Earl Warren discovered in *Brown*.

In short, *Brown* reached the right result, but used wrong reason. *Plessy* v. *Ferguson* ("separate but equal") cried out to be overturned, but not through faulty legal logic. In *Brown* v. *Board of Education*, Warren embarked on a laudable quest to achieve a more just society. But justice could have been achieved without shoehorning into the Constitution meanings that just aren't there.

Quin Hillyer
Mobile, AL

Contrary to the usually insightful Charles Krauthammer, the rumors of affirmative action's "popular and legislative death" are greatly exaggerated. As the recipient of dozens of requests every month for legal help in fighting public and private race preferences, take it from me that reverse discrimination is hardly receding at all. The victories at the ballot box and the courtroom have been helpful, but not conclusive. The "race matters" crowd—especially in our elite institutions of higher learning—constantly finds new and ingenious ways to inject skin color into our affairs.

And as to whether the political process should be left to end these practices rather than the courts, that already took place in 1868 when 28 state legislatures completed ratification of the Fourteenth Amendment. The courts got us in this mess, now they need to take us out of it.

Edward Blum
American Civil Rights Institute
Washington, DC

• • •

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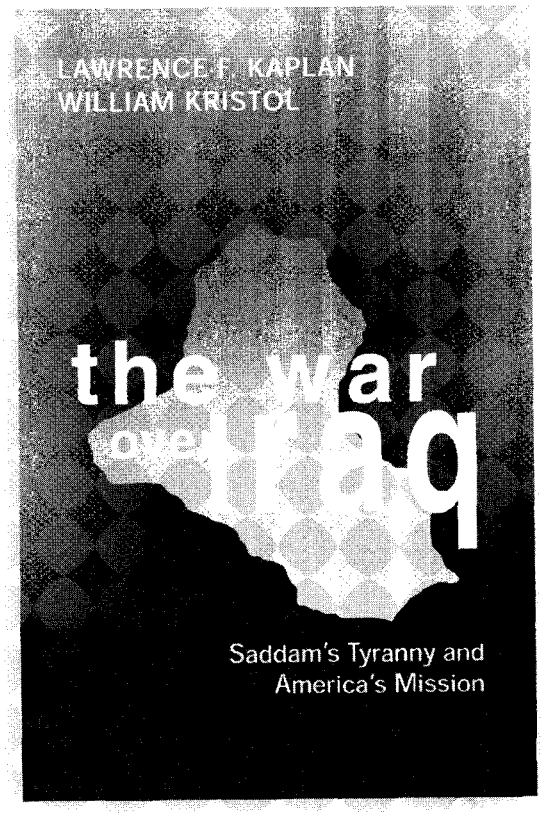
THE CASE FOR WAR



ISBN: 1-893554-69-4, $25.95, 153 pages

"Anyone who harbors doubt about the imperative of regime change in Iraq for the vital security interests of the United States should read this book."
–Senator John McCain

Lawrence Kaplan and William Kristol look at Saddam Hussein and see the face of evil. In his Iraq, the children of those suspected of disloyalty have their eyes gouged out, and women are threatened with rape by secret policemen to extort support from their husbands. The authors show how minorities are dealt with ruthlessly, particularly the Shiites and Kurds, whom Saddam subdued with poison gas. The same genocidal techniques he used against his own people—nerve gas and cyanide—also characterized Saddam's war against Iran.

In addition to examining Saddam's brutality and the threat his weapons of mass destruction poses, Kaplan and Kristol analyze the failure of American policy on Iraq since the Gulf War. The first Bush administration regarded Iraq as a move on a diplomatic board game, and failed to remove Saddam when it had a chance. The Clinton administration subscribed to a brand of wishful liberalism that led it to avoid facing up seriously to Saddam's threat. But President George W. Bush, the authors show, does not intend merely to contain Iraq. Instead, he plans to liberate this benighted country, and create democracy in a place that for decades has known only tyranny.

Kaplan and Kristol provide a definitive analysis of the Bush Doctrine and how it is shaping a foreign policy that projects American influence on behalf of American interests and human freedom. They make the case for war. But they also offer a roadmap for a more hopeful future in Iraq, the Mideast, and the world.

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the weekly Standard

Moment of Truth

After presentations by Hans Blix and Mohamed el-Baradei to the U.N. Security Council last Friday—in a session marked by enthusiastic applause for the dithering of the French foreign minister and chilliness towards the Americans—Secretary of State Colin Powell spoke forcefully of the need to take action against Saddam Hussein. We reprint excerpts below.

Mr. President, Mr. Secretary General, distinguished members of the council, it's a great pleasure to be here with you again to consider this very important matter, and I'm very pleased to be here as the secretary of state of a relatively new country on the face of the Earth.

But I think I can take some credit sitting here as being the representative of the oldest democracy that is assembled here around this table. Proud of that. A democracy that believes in peace, a nation that has tried in the course of its history to show how people can live in peace with one another, but a democracy that has not been afraid to meet its responsibilities on the world stage when it has been challenged; more importantly, when others in the world have been challenged, or when the international order has been challenged, or when the international institutions of which we are a part have been challenged.

That's why we have joined and been active members of institutions such as the United Nations and a number of other institutions that have come together for the purpose of peace and for the purpose of mutual security and for the purpose of letting other nations which pursue a path of destruction, which pursue paths of developing weapons of mass destruction, which threaten their neighbors—to let them know that we will stand tall, we will stand together to meet these kinds of challenges.

I want to express my appreciation to Dr. Blix and Dr. el-Baradei for their presentation this morning. They took up a difficult challenge when they went back into Iraq last fall in pursuit of disarmament as required by Resolution 1441. And I listened very attentively to all they said this morning, and I am pleased that there have been improvements with respect to process. I'm pleased that there have been improvements with respect to not having five minders with each inspector, down to something less than five minders with each inspector. But I think they still are being minded, they are still being watched, they are still being bugged, they still do not have the freedom of access around Iraq that they need to do their job well. . . .

I am glad that access has been relatively good. But that is all process, it is not substance. I am pleased to hear that decrees have now been issued that should have been issued years and years ago, but does anybody really think a decree from Saddam Hussein—directed to whom?—is going to fundamentally change the situation? And it comes out on a morning when we are moving forward down the path laid out by Resolution 1441. These are all process issues. These are all tricks that are being played on us. . . .

I commend the inspectors. I thank them for what they are doing. But at the same time, I have to keep coming back to the point that the inspectors have repeatedly made, and they've made it again here this morning, they've been making it for the last 11-plus years: What we need is not more inspections, what we need is not more immediate access, what we need is immediate, active, unconditional, full cooperation on the part of Iraq. What we need is for Iraq to disarm. . . .

We haven't accounted for the anthrax; we haven't accounted for the botulinum, VX, both biological agents, growth media, 30,000 chemical and biological munitions. These are not trivial matters one can just ignore and walk away from and say, "Well, maybe the inspectors will find them." Maybe they won't.

We are facing a difficult situation. More inspectors? Sorry, not the answer. What we need is immediate cooperation. Time? How much time does it take to say, "I understand the will of the international community, and I and my regime are laying it all out for you and not playing guess—not forming commissions, not issuing decrees, not getting laws that should've been passed years ago suddenly passed on the day when we are meeting"? These are not responsible actions on the part of Iraq. These are contingent efforts to deceive, to deny, to divert, to throw us off the trail, to throw us off the path. . . .

I submit to you that, notwithstanding the improvements in process that we have noted and I welcome—and I thank the inspectors for their hard work—these improvements in process do not move us away from the central problem that we continue to have. And more inspections and a longer inspection period will not move us away from the central issue, the central problem we are facing. And that central problem is that Iraq has failed to comply with 1441.

The threat of force must remain. Force should always be a last resort. I have preached this for most of my professional life as a soldier and as a diplomat. But it must be a resort.

—Colin Powell, for the Editors

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The Estrada Piñata

The Democrats take a whack at Bush's appellate nominee. BY TERRY EASTLAND

SENATE DEMOCRATS say they don't know enough about Miguel Estrada's legal views. That's the reason they give for filibustering his nomination to the U.S. Court of Appeals for the D.C. Circuit. As Sen. Charles Schumer told the nominee at the end of his confirmation hearing last fall, before the Democrats lost the Senate, "We don't know you."

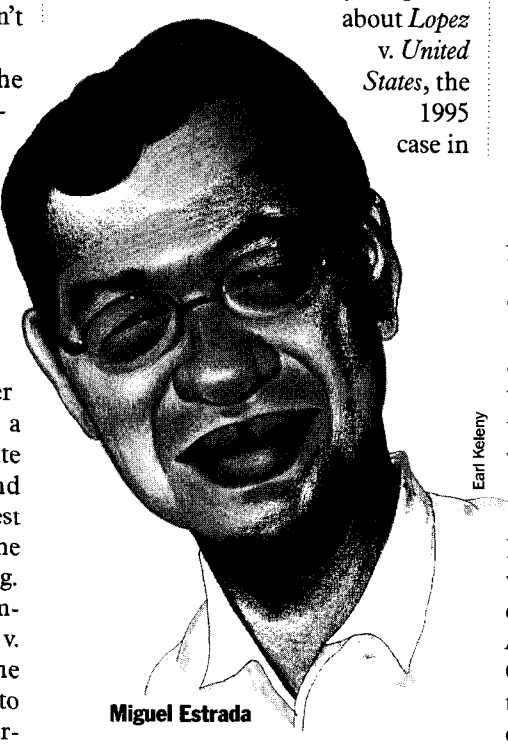
But the neglected story in the nomination battle over Estrada concerns the legal views of Senate Democrats. Fortunately, by showing us exactly how Democrats have tried to "know" Estrada, the record makes amply clear what those views are. It also helps to explain the Democrats' decision to filibuster.

The questions senators (whether Democratic or Republican) ask a nominee are revealing. They indicate the preoccupations, interests, and passions of the senators. They suggest (if they don't outright state) what the senators think about law and judging.

In Estrada's case, Judiciary Committee Democrats asked about *Roe* v. *Wade*, the 1973 case in which the Court extended the right of privacy to encompass a woman's right to abortion. They asked about *Regents of the University of California* v. *Bakke*, the 1978 case that okayed the use of race in admissions so long as it doesn't involve a quota. The Democrats also asked about "diversity," the rationale higher educators typically give for favoring certain applicants over others on the basis of race. And which, of course, is the big issue before the Supreme Court in the Michigan affirmative action cases.

Terry Eastland is publisher of THE WEEKLY STANDARD.

The Democrats asked about *Romer* v. *Evans*, the 1996 case in which the Supreme Court—with Justices Rehnquist, Scalia, and Thomas dissenting—struck down a state constitutional provision precluding any governmental action designed to protect the status of persons on the basis of sexual orientation. They inquired about *Lopez* v. *United States*, the 1995 case in which the Court invoked the Commerce Clause to strike down a 1990 act of Congress, the Gun-Free School Zones Act. And they asked about the constitutionality of the death penalty.



Earl Keleny

Miguel Estrada

Judiciary Committee Democrats asked about those things for obvious reasons. They want abortion rights to remain in the Constitution. They want "diversity" validated as a sufficient legal justification for race-based admissions. They want *Romer* to remain the law of the land. On the other hand, they have doubts about the death penalty, the constitutionality of which the High Court has affirmed, and they disagree with the federalism decisions that started with *Lopez*. In each of those cases the Court declared an act of Congress unconstitutional.

In sum, the Judiciary Committee Democrats support the liberal social agenda of their party and big government. And they don't want judges, or justices, disrupting that agenda or questioning legislative power. Ideally, they want jurists who advance their agenda and agree with their conception of congressional authority.

You can see why Democrats weren't happy with Estrada during his hearing, since he consistently declined to opine on the particular decisions they raised. His "view of the judicial function," as he explained in an exchange with Sen. Dianne Feinstein on *Roe* v. *Wade*, didn't allow him to answer her question, which was the pointed, "Do you believe that *Roe* v. *Wade* was correctly decided?" What Estrada meant, as he later explained, was that it wouldn't be appropriate for him to offer a view on a case "without doing the intensive work that a judge hearing that case would have to undertake." And he wasn't going to do that kind of work as part of the confirmation process. Democrats also weren't impressed by Estrada's frequent statements that, were he confirmed, he would have no qualms of any kind about following *Roe* or *Romer* or any other Supreme Court decision. Doubtless it didn't thrill the Democrats when Estrada, consistently applying that principle of deference, also said that *Lopez* "is binding law and I would follow it."

During his hearing, Estrada revealed himself as the thoughtful lawyer he is generally reputed to be. Even Schumer conceded his "legal excellence," calling him "a very, very intelligent, accomplished lawyer." Yet committee Democrats, all of whom voted against him, showed little interest in exploring his view of "judging as a process that is intended to give us the right answer, not [lead] to a result." For committee Democrats—and perhaps now for most of

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SPIKING THE SPAMMERS

The Internet is an amazing breakthrough in communications, but it has produced an irritating side effect: unsolicited commercial e-mail.

Spam is big, several billion messages every day and still growing. With it grows the frustration of millions who must wade through a rising tide of junk e-mail, much of it deceptive and some of it lewd. Yet spam thrives despite the annoyance, in part because spammers face virtually no economic constraints. Sending e-mail is so cheap that spammers can turn a profit even if only one in 100,000 recipients responds.

With such favorable economics and a global reach that frustrates law enforcement, spam is not easily defeated. But it has been reined in somewhat, and can be tamed further, by a combination of advanced filtering technologies, consumer education and the cooperation of industry and government.

Thanks to technology, the spam that lands in inboxes today is a fraction of all that is sent. At MSN messages are filtered twice, first by filters on e-mail servers and then again as subscribers use MSN 8 software. The MSN 8 filter becomes more effective as it learns the characteristics of mail that a subscriber designates as junk.

Using a filter is one way to curtail spam. Another is by reserving one e-mail address for family and friends, ideally a unique address with both letters and numbers, to help avoid mail sent scattershot to many common e-mail user names. Responding to unsolicited e-mail from unknown senders, even asking to be removed from their lists, may only encourage more spam.

But complaining to the authorities can help. The Federal Trade Commission takes legal action against senders of deceptive or fraudulent bulk e-mail, which should be forwarded to uce@ftc.gov. Every major Internet Service Provider (ISP) prohibits spamming on its network and, based on complaints, terminates known abusers, which at least forces them to move frequently from service to service.

Microsoft's MSN and Hotmail are continually working to educate consumers and deploy innovative technology. We are intensifying our efforts to cooperate with other ISPs in fighting spam, and working with government to enforce current laws against it.

Curbing junk e-mail will take industry collaboration, new laws and continuing advances in technology

But new, strong laws are needed. At a minimum, senders should not be allowed to misrepresent their identity, falsify the subject of a message, or use automated means to gather e-mail addresses without the owners' consent.

Government, industry and consumers working together can stem the tide of spam, protect legitimate commercial e-mailers as well as consumers, and preserve the communications network that sustains the digital economy.

One in a series of essays on technology and society. More information is available at microsoft.com/issues.

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their colleagues outside the committee—judging is less about process than it is about results—preserving those already in place and reaching for new ones. And the usual instrument for bringing about the results Democrats favor is the "living Constitution."

Touted by Al Gore in the 2000 campaign, the living Constitution is the one judges create by adapting the presumably dead Constitution to modern times. Not surprisingly, this wondrous Constitution made an appearance in Estrada's hearing, in a question on the death penalty posed by Sen. Herbert Kohl. "In light of growing evidence that a substantial number of innocent people have been sentenced to the death penalty, does that provide support, in your mind," he asked Estrada, "for the two federal district court judges who have recently struck down the death penalty as unconstitutional?" Kohl would have this "growing evidence" trump the constitutional text, which explicitly accepts capital punishment. Not incidentally, the two judges who declared the death penalty unconstitutional (thus defying the Supreme Court) are Clinton appointees.

The battle over Estrada is not merely about Estrada. It's also about the president's judicial nominees in general, especially those for the circuit courts and the Supreme Court. In the 107th Congress, Senate Democrats tried to use their power as the majority party to influence the president's exercise of his exclusive power to nominate: In some cases they refused to grant a hearing. In others they eventually held hearings but didn't vote on the nominees. Twice they rejected nominees on party-line votes. Now in the minority and thus unable to run the Judiciary Committee, the Democrats are down to the filibuster.

Only a party that puts ideology before everything could think the filibuster, a politically risky tool, worth the cost of its employment. Yet against Estrada, it just might work: It takes 60 votes to break a filibuster, and right now the Republicans have only 54—their own 51 plus the votes of three Democrats.

If the Democrats do succeed with their filibuster, they will intensify their calls for the president to choose "moderate" jurists, which is to say, judges more to their liking. Such nominees will have to reveal their compatibility with Democratic views during their confirmation hearings, if they have not done so before. Far from abating now that Republicans hold the Senate, the war over judges has, for the moment, turned very hot. ♦

The Bush Senators

They owe their jobs to the president. Will they repay him? BY FRED BARNES

PRESIDENT BUSH invited his favorite class to the White House in early February for lunch in the Old Family Dining Room. It consisted of senators elected in last fall's election—the Bush class. Vice President Dick Cheney and presidential adviser Karl Rove were on hand. After the president talked about Iraq and judges, the senators spoke up. One of them, Norm Coleman of Minnesota, asked for "permission to speak freely," got it, and told Bush that Republicans need more help in selling his new tax cut.

Presidents often barely know freshman senators, but Bush is unusually close to the class of 2002. During a walk in the Rose Garden and a chat beside the White House swimming pool in 2001, he personally persuaded Coleman, 53, to run. The president cleared the Republican field in Georgia for Saxby Chambliss, 59, to challenge Democratic senator Max Cleland. Bush helped Jim Talent, 46, resist pressure to run for governor of Missouri and seek the Senate seat held by Democrat Jean Carnahan instead. Bush pointedly did not discourage John Sununu, 38, from taking on an incumbent Republican senator in New Hampshire, Bob Smith. Just don't do anything in the primary that might make winning the general election more difficult, he advised.

Fred Barnes is executive editor of THE WEEKLY STANDARD.

And there are two other reasons why the president and the GOP Senate class of 2002 bonded. He campaigned relentlessly for them, raising money, speaking at rallies, and stirring a large Republican voter turnout. Bush appeared five times for Talent, and three times each for Coleman, Chambliss, and Sununu. He also showed up for four other new senators—Elizabeth Dole in North Carolina, Lamar Alexander in Tennessee, John Cornyn in Texas, and Lindsey Graham in South Carolina—but his support wasn't crucial in their races. It was, however, for the core group of Coleman, Chambliss, Talent, and Sununu.

So the question is: What is their obligation to Bush now? Should lockstep backing of the White House be expected? Not quite. But gratitude Bush does expect. "They are independent people," says a presidential adviser. "They are compassionate conservative Republicans. Many adopted Bush's agenda. They are Bush's kind of people. Bush moved heaven and earth for them and they know that."

Each senator insists he's not a knee-jerk "Bush" senator. Coleman believes he's figured out the proper relationship with Bush. "He helped me," Coleman says. "I worked hard. It's an equal thing. We're even." The president "is a friend and I have friends I disagree with." But he'd never do anything to embarrass Bush or

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TomPaine.com common sense
A Public Interest Journal

The Real Aim of Medical Malpractice "Reform"

Have you checked your auto, homeowners, or business insurance premiums lately? They're way up. Why? Because insurance companies, which like to gamble in the stock and bond markets, have taken a drubbing. They're trying to recoup by boosting premiums.

Insurers have jacked up medical malpractice insurance rates, too. Doctors are howling. In headline-grabbing strikes across the nation, they proclaim they can't practice medicine without affordable insurance. True enough.

But instead of fingering the real culprits – insurance companies – doctors and the **American Medical Association** have joined insurers in blaming injured patients who file supposedly "frivolous" lawsuits and jurors they say are eager to make huge malpractice awards.

Their solution – limiting the discretion of jurors by capping jury awards, so-called "tort reform" – is as fraudulent as the manufactured crisis it's supposed to address.

Donald J. Zuk, CEO of a major malpractice insurer, has said as much. Commenting on rising malpractice premiums, Zuk told *The Wall Street Journal* last year, "I don't like to hear insurance-company executives say it's the tort system – it's self-inflicted."

In fact, when malpractice premiums spiked in the 1980s, many states capped jury awards. That hasn't held rates down. (California passed *insurance* reform in 1988 – *that* worked.) And if discouraging "frivolous" lawsuits is the goal, why cap damages in *successful* suits, those that, by definition, are *not* frivolous?

The current insurance "crisis" is, in fact, just the latest push in a decades-long effort to pass "tort reform" – a campaign by corporations, doctors and insurance companies to insulate themselves from legal accountability by tying jurors hands.

"The people pushing tort reform have used campaign contributions and lobbying to compromise elected officials and regulators," says one consumer advocate. **"Juries are the last line of protection for consumers. Jurors don't take campaign contributions. They can't be lobbied. What tort reformers fear most is 12 people they can't control."**

This week at TomPaine.com – TARGET: Juries
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hurt his presidency, Coleman says. He backs Bush passionately on Iraq and also on judicial nominations, Social Security reform, and the tax cut. When he questioned Bush at the lunch, Coleman was eager for the administration to market its proposal to eliminate taxes on dividends more effectively—so folks "in the coffee shop in Mankato" would be convinced. Since the lunch, that's happened, Coleman said.

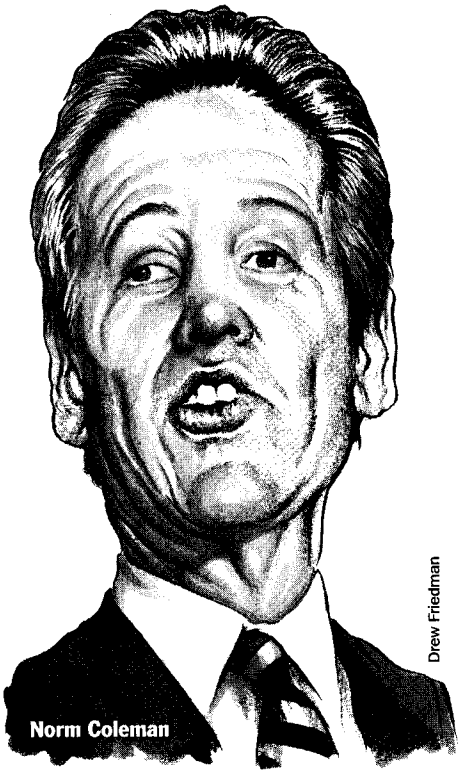
On oil drilling in the Arctic National Wildlife Reserve and trade with Cuba, Coleman splits with Bush. "I want [the president] to be successful," he says. "But I'll challenge him on trade with Cuba, and on ANWR we're in a different place." At the White House, "they understand you have to be successful back home. They also know they have a great friend in the Senate. It's not a bad deal."

At the lunch, Chambliss offered Bush this piece of advice: Don't let Saddam Hussein off the hook by allowing him to go into exile. "Asylum won't work," he said. "If the guy survives, he needs to be treated as a war criminal." The president told Chambliss he didn't have to worry.

Georgia was the best Republican state in the 2002 election. "There's no question but that [Bush's intervention] made a difference," Chambliss says. "Having him there was huge. Having him say the right things was huge. We took them and put them in a TV ad." At a rally at the Savannah airport three days before the election, "folks were literally hanging from the rafters."

Like Coleman, Chambliss is with Bush on this year's big issues (Iraq, taxes, Social Security, judges), especially the naming of conservative federal judges. "We've talked to the White House a lot on that issue." His only objection to the tax cut is the absence of a reduction in the capital gains tax rate. Chambliss's strongest misgivings are about Bush's plan, now on hold, to grant amnesty to millions of illegal immigrants.

Talent spent time as a House member (eight years), as did Chambliss (eight) and Sununu (six), and developed a kind of compassionate conservative agenda of his own before Bush popularized the phrase "compassionate conservative." Some of his ideas are different from, but not inconsistent with, Bush's. Talent was a force behind the passage of welfare reform in 1996 and now wants the welfare system to promote marriage. He favors "association health plans" to help small businesses offer health insurance, an idea Bush hasn't embraced but might like.


Norm Coleman

Drew Friedman

He credits Bush with "energizing Republicans" in Missouri, but insists that "at the end of the day all politics is local." His best issue, Talent says, was defending "Missouri values and Missouri interests." He loves Bush's slogan that government should do only a few things and do them well. If any Republican disagrees with Bush on a major issue, he should be willing "to look the president in the eye" and tell him so. He hasn't had to yet. "I hope we have a special relationship" between Bush and the 2002 class. "That'd be great."

During his campaign, Sununu was frequently in contact with Rove. But when the White House sought twice to help him, it backfired both times. The administration tried to accommodate the need for more money to buy home heating oil, but failed to meet expectations in New Hampshire and forced Sununu to devote time to explaining what had happened. The White House didn't satisfy unemployed mill workers either when it liberalized rules for using jobless aid. When Rove called, Sununu says, he'd ask: "What's Shaheen doing? Got enough money? What are the papers doing? You better win." Sununu's half-serious response was, "Stop helping me!"

Sununu has a plan for splitting the Bush tax bill and passing it in separate votes, a tactic the White House has also discussed. He's a strong advocate of creating individual investment accounts in Social Security and attends White House meetings on the issue. Bush's fleeting mention of Social Security reform in his State of the Union address was enough, Sununu believes, "to make sure folks understood the president and Karl Rove still believe in this as much as ever."

At the lunch, Sununu sat at the far end of the table from Bush. "I took it as a compliment I didn't need more face time with the president," he says. He advised the president against putting the $15 billion package to combat AIDS in Africa and the Caribbean into a global fund under the control of other nations. Bush isn't about to.

The president sat between the lone Democrat at the lunch, Mark Pryor of Arkansas, and the newly appointed senator from Alaska, Lisa Murkowski, daughter of Gov. Frank Murkowski. Concentrating his private attention on Pryor, Bush lobbied for the confirmation of judicial nominee Miguel Estrada. While the Republicans in attendance were all pro-Estrada, Pryor hadn't declared how he would vote. The more Bush talked, the more uncomfortable Pryor looked. Days later, Pryor announced that he would oppose the Estrada nomination. ♦

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Humanitarian Sexploitation

The world's sex slaves need liberation, not condoms. BY DONNA M. HUGHES

EACH YEAR, hundreds of thousands of women and children are trafficked into prostitution around the world, and join the millions of women and children already entrapped in prostitution by pimps and organized crime groups. Thankfully, this humanitarian catastrophe is finally attracting high-level attention in Washington.

At the end of 2002, former congressman John Miller—who is determined to defeat the traffickers—was appointed as director of the State Department's Office to Monitor and Combat Trafficking in Persons. Later this month, the State Department, in partnership with the nongovernmental War Against Trafficking Alliance, will host an international conference, "Pathbreaking Strategies in the Global Fight Against Sex Trafficking." It will be an opportunity for hundreds of activists, service providers, law enforcement personnel, and governmental officials to meet and share their experiences fighting trafficking.

U.S. leadership in this fight is needed because many of the world's humanitarian organizations have been willing to overlook and excuse the trade in women and children. The reason is as simple as it is tragic: The sex slaves are a high-risk group for HIV infection. Unfortunately, efforts to curb the global HIV/AIDS crisis have led to "nonjudgmental" condom distribution campaigns that ignore some of the world's worst crimes and human rights violations. Indeed, the HIV/AIDS prevention educators often make deals with perpetrators.

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For instance, in Kerala State in India, where organized crime groups and corrupt political officials control the red light districts, a former police commissioner tells me that social workers must get permission from the pimps to give condoms to the women. In return, the social workers agree to ignore the presence of children and never to tell the women how to get out of prostitution. It should be obvious that if health educators can't gain access to women and children in brothels without making deals with pimps, the women and children are not free to leave, and are, in the truest sense of the word, enslaved.

Imagine what it's like: You're in a hellhole. You've been tricked, lied to, threatened. You're being raped multiple times a day—you can't say "no," and you can't get out. Then, one day, someone from the outside comes; she says she's there to help. She hands you some condoms, tells you to use them, and leaves—smiling and thanking the pimp as she goes.

Such dealings with some of the world's most despicable criminals now increasingly take place as a matter of policy, both by governmental and nongovernmental aid workers. An astonishingly named "practical guide," *Hustling for Health*, a pamphlet produced by the European Network for HIV/STD Prevention in Prostitution and funded by the European Commission, offers the following advice to health educators: "Contact with a prostitute may only be possible through her pimp, and so [it] is advisable to establish (friendly) relations."

The attitude that condoms are more important than girls' freedom and safety can be found in the pages of the *New York Times*. In a recent editorial on funding international reproductive health services, the writer acknowledged that "teenage girls get AIDS largely because they are pressured into sex by older men," but insisted that girls need "condoms and counseling about how to negotiate sex." *Being pressured into sex by an older man is rape*. Girls should be taught to negotiate with rapists?

In January, the Mexican paper *El Universal* published a three-part series on the trafficking of Mexican girls to brothels—rape camps, really—near San Diego. Over a 10-year period, hundreds of girls, 12 to 18 years old, from southern Mexico were either kidnapped or tricked by three brothers into coming to the United States. The girls were sold to farm workers—between 100 and 300 at a time—in small "caves" made of reeds in the fields. Many of the girls had babies, who were used as hostages with death threats against them, so their mothers would not try to escape.

An anonymous American doctor who worked for a community health clinic that provided health care to migrant workers said, "The first time I went to the camps I didn't vomit only because I had nothing in my stomach. It was truly grotesque and unimaginable." Over time, the girls got younger; a number were 9 and 10 years old. One time, the doctor counted 35 men using a girl in one hour. When the police raided the brothels, they found dozens of empty boxes of condoms, each box having held a thousand condoms. Calculate how many rapes that represents.

Yet for five years, under instruction from her supervisor, the doctor worked with the pimps "to prevent HIV/AIDS and other venereal diseases in the exploited minor girls." When she reported the horrific activities, she was told prostitution was not a migrant health concern. She said, "I fought a lot with the U.S. government and they told me that I shouldn't do anything, that I had signed a federal agreement of confidentiality." She said, "If I wanted to help these girls I had to develop a

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relationship with the pimps. . . . I had to convert myself into someone who doesn't judge, who doesn't express opinions."

Being nonjudgmental about sexual slavery means ignoring some of the most violent crimes and human rights violations being committed against women and children. In Cambodia, in Svay Pak, a squalid brothel village internationally known to sex tourists and pedophiles, Médecins Sans Frontières in collaboration with the Population Council conducted projects with "trafficked debt-bonded sex workers . . . and with girls engaged in commercial sex." The NGOs provided these enslaved women and girls with free medical treatment and centered their efforts on teaching them how to negotiate condom use with foreign men. In late January of this year, following determined criticism by U.S. activists, the Cambodian government demonstrated an alternative solution that many NGOs and European governments thought unachievable: The government closed the brothels, freed the women and girls, and provided services to those in need.

The time has come for the U.S. government, through tough-minded grant administration policies and focused diplomacy, to assert the necessary political will to end the worldwide enslavement of vulnerable women and children, and to confront the corruption that enables it. This can be achieved through vigorous enforcement of the Trafficking Victims Protection Act of 2000, a broadly endorsed reform sponsored by Republicans Sam Brownback and Chris Smith and the late Democrat Paul Wellstone. The measure would withhold nonhumanitarian aid from countries that fail to prosecute traffickers or protect their victims.

In the end, as the Bush administration gives increasing signs of recognizing, more women and children's lives will be saved and more women and children liberated from sexual slavery by closing brothels and arresting pimps and traffickers than by passing out condoms. ♦

The U.N.'s Refugee Betrayal

The high commissioner takes the low road.

BY CLAUDIA ROSETT

"CATASTROPHIC" was the word picked last week by Ruud Lubbers, the United Nations high commissioner for refugees, to describe the exodus he expects from Iraq if the United States goes ahead and removes Saddam Hussein.

Given the uncertainties of war, maybe Lubbers has it right—but maybe not. What produced a devastating refugee crisis for Iraqis in 1991 was not the war to expel Iraqi troops from Kuwait, but the failure to remove Saddam from power. This round, with President Bush staking his foreign policy on the liberation of the Iraqi people, there's every reason to expect that America will be ladling out aid and shoring up safety for the Iraqis faster than you can say "So long Saddam." That could go far to stay the refugee tide that Lubbers fears.

Even so, Lubbers's assessment might be compelling had he built up credibility by his handling of an actual refugee catastrophe already unfolding on his watch. This is the flood of North Koreans seeking haven in China.

As Lubbers knows, the North Korean refugee crisis has been going on under the nose of the UNHCR's Beijing office for almost a decade. This is not a short-term displacement occasioned by a war of liberation. The estimated 300,000 North Koreans on the lam in China are fleeing a holocaust inflicted by North Korean dictator Kim Jong Il on his own people. Hundreds of defectors have testified to human tragedy on a colossal scale. More than one million people in the past half decade have starved to death. Hundreds of thousands have been consigned to wither and die in a gulag that rivals Joseph Stalin's. Stories have emerged of people flayed alive in Kim's prison camps; of the systematic murder of babies born to women prisoners; of a country in which people both in and out of the camps have been reduced to eating rats and dirt, or even to cannibalism.

One might imagine that the plight of human beings fleeing this hell would be a top priority for the leading international agency protecting refugees. But in order to aid these people, the UNHCR would have to stand up to the Chinese government, which has so far refused to acknowledge the Koreans' right to asylum under U.N. rules. By Beijing's lights, not a single North Korean can qualify as a refugee. All are "economic migrants." As such, they are hunted by Chinese security, and when caught they are sent back—sometimes to immediate execution, often to terms in the prison camps that amount to death sentences.

This puts China in breach of a series of lofty deals it has signed with the U.N., including the 1951 convention on refugees and 1967 additional protocols, as well as a 1995 U.N.-Beijing treaty that allows either party to call for independent, binding arbitration should any dispute arise over the handling of refugees.

But no dispute has arisen, no arbitration has been invoked, for the simple reason that no high official at the U.N.— not Lubbers, and certainly not his boss, Secretary General Kofi Annan—seems to believe these North Korean refugees are worth fighting for, or even speaking out about, at

Claudia Rosett is a columnist for the Wall Street Journal Europe.

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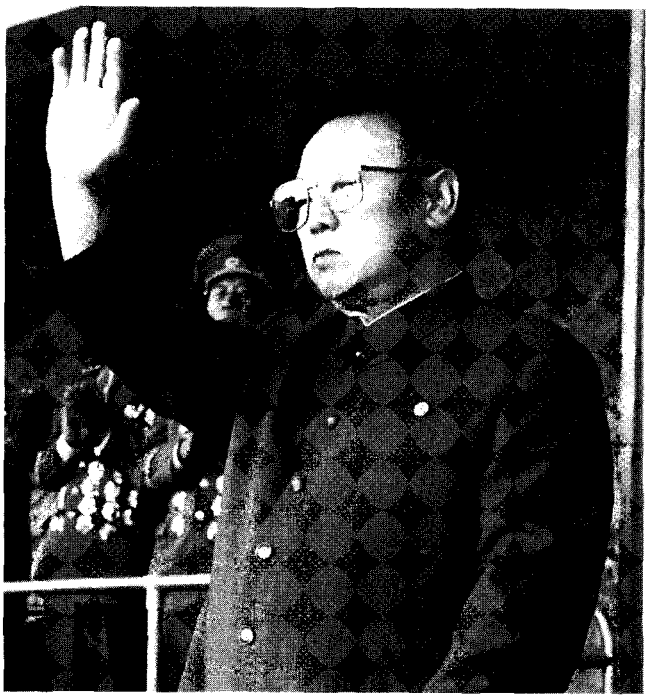

Agence France Presse

A starving North Korean refugee in the mountains of China; dictator Kim Jong Il

least not in terms stronger than a kind of vague U.N. "concern." A higher priority for the U.N. is to humor the Chinese authorities so that the UNHCR can keep its office in Beijing—from which to pursue what UNHCR officials call their "quiet diplomacy." Years of this tactic have produced less than nothing. China's authorities have learned that ignoring the UNHCR's muttering carries no cost.

In fact, with the tacit consent of the UNHCR, China's tyrants preen themselves on their model behavior as members of the civilized community. Beijing holds a seat on the guiding body of the UNHCR, the Executive Committee. At a December 2001 shindig hosted by Lubbers in Geneva, Switzerland, celebrating the fiftieth anniversary of the U.N. convention on refugees, Chinese vice foreign minister Wang Guangya blathered on about how "China has always conscientiously fulfilled its international obligations" and lauded the refugee convention as the "magna carta of international refugee law." Meanwhile, back in China, the hunting and returning of refugees (known as "refoulement," which is banned by the convention) continued apace.

When U.S.-based refugee rights activist Suzanne Scholte wrote last month to China's authorities protesting the imminent return of some North Koreans recently seized in China, she received a letter from China's ambassador to the United States, Yang Jiechi. Yang explained that "the prevailing view of the international community is that they are not refugees, . . . they are illegal economic migrants." Yang went on to protest that "some of them have committed further violations of more Chinese laws by breaking into foreign diplomatic and consular missions in China." He was referring to the few score North Korean refugees who over the past two years have made a desperate bid for international help, risking arrest by storming foreign legations in China.

To find the only effective source of help for the North Korean refugees, don't even bother checking the UNHCR's payroll. Genuine relief comes only via a loose network of private individuals, who—often at risk to their own safety—have helped smuggle some out of China to asylum in third countries. Best known among this group is a German doctor, Norbert Vollertsen, who had the chance about three years ago to witness what he describes as the "holocaust" in North Korea, and has since dedicated himself, in the face of death threats, to speaking out, organizing protests, doing anything he can to save the North Korean refugees.

When I asked a UNHCR spokesman last week to spell out how North Koreans can secure asylum in China, he repeated the agency's line: The UNHCR is denied access by Beijing to the border areas where the refugees arrive; and North Koreans seeking asylum must first request refugee status from the Chinese authorities. He acknowledged that seven North Koreans who tried this in Beijing last August were arrested on the spot and that the UNHCR has had no news of them since.

From an agency so sensitive to human suffering as to be sounding advance alarms on Iraq, one might have expected words at least as strong as "catastrophic"—one might even have expected actions—to muster help for the North Koreans in China. What we have instead is the U.N.'s quiet diplomacy, and from the thousands of North Koreans turned back by China, a terrible silence. ♦

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Getting Fat on Torts

How to put profiteering lawyers on a diet.

BY WILLIAM TUCKER

WHILE INVESTORS are waiting for the Next Big Thing to emerge from the world of technology, the best business plans are emerging in an entirely different sector—lawsuits.

Trial lawyers are now among the most successful entrepreneurs in America. The returns on investment are staggering. In the silicon breast implant saga, for example, $80 billion changed hands—even though subsequent scientific research proved the health scare to be unfounded. As Walter Olson points out in his new book *The Rule of Lawyers*, estimated hourly wages for attorneys who took the lead in the tobacco settlement amounted to more than $100,000 an hour.

All this moneymaking does not go on long without attracting ambitious people. The numbers of applicants taking the Law School Application Test (LSAT) are at historic highs and have seen double-digit rates of increase for the last two years. Business school applicants, although also at an all-time high, seem to have leveled off. More telling still, law firms are now attracting venture capital. It may not be long before there are mutual funds enabling the "little guy" to invest in the litigator of his choice.

New ground was mined early this month when a federal judge in New York handed down the first ruling on the latest avenue to riches—the claim by eight New York City teenagers that eating at McDonald's has made them fat. True, federal judge Robert Sweet dismissed the initial claim. "If consumers know, or reasonably should know, the potential ill health effects of eating McDonald's, they cannot blame McDonald's if they, nonetheless, choose to satiate their appetite with a surfeit of supersized McDonald's products," said the 80-year-old jurist.

Newspapers all over the country celebrated this triumph of common sense. The notoriously liberal Sweet—who once ruled that panhandling was "free speech"—had dismissed the case, right? Well, not exactly. First note how Sweet casually asserts that eating at McDonald's may have "potential ill effects." That was enough to make Ralph Nader's Center for Science in the Public Interest break out the mineral water. Second, Sweet made the consumer's *knowledge* of these supposed ill effects the crux of his decision.

Only the *New York Post*, parsing the 64-page decision, noted that at one point Sweet actually labeled McDonald's Chicken McNuggets a "McFrankenstein creation of various elements." Like a patient law professor, Judge Sweet was actually coaxing his pupils in the proper direction.

Wrote reporter John Lehmann: "After listing McNuggets' ingredients, Sweet pointed out that customers might not know that they contained twice as much fat per ounce as a hamburger." "If plaintiffs were able to flesh out this argument," wrote Sweet, "it may establish that the dangers of McDonald's products were not commonly well known and thus that McDonald's had a duty towards its customers."

Samuel Hirsch, representing the teenagers, said he plans to refile, emphasizing the judge's desired arguments.

Hirsch, for now anyway, is a small-time operator. "Big Food" cases have not yet attracted such all-stars as Peter Angelos, the Baltimore lawyer whose tort practice (primarily asbestos) has become one of Maryland's major industries, or Dickie Scruggs, brother-in-law of Trent Lott and buddy of Bill Clinton, who was the lead litigator in the tobacco suit. But that's the way things work in any thriving industry. Pioneers such as Hirsch are to the litigation industry what Daniel Bricklin (VisiCalc) and Scott Cook (Quicken) were to software. They explore the cutting edge. If successful, their efforts are quickly acquired or copied by the industry giants, with the founders getting a piece of the action.

Remember, all it will take is one federal or state judge to agree to put McDonald's on trial and the doors will be open. Discovery proceedings will ransack corporate files for the smoking gun. Soon it will be: "They knew! They lied to us!" Think trillions.

The academics and Naderites who spearhead these campaigns are already focusing their sights. "There's a lot of people who benefit from people being fat and sick," says Marion Nestle, author of *Food Politics*. "The whole setup is designed to make people eat more. So the response to the food industry should be very similar to what happened with the tobacco companies." And while McDonald's and fast-food companies are the initial targets, the crusade could very well be expanded to include farmers themselves. The dairy industry seems particularly vulnerable for its milk ads. Some might argue that farmers are widely respected members of the community, but remember the same was once said about doctors. In recent months doctors in Pennsylvania, West Virginia, and New Jersey have struck over high malpractice premiums.

Driving the tort industry's phenomenal growth is the principle that civil courts can mete out punishment. Traditionally, punishment was re-

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served for the criminal courts while civil courts settled disputes among individual parties. Over the decades, however, lawyers have been able to make "punitive damages" the centerpiece of many civil proceedings.

If a corporation defies the Environmental Protection Agency, for example, it may find itself paying a fine of $1 million a day—if it is foolish enough to persist. Yet civil courts now issue punitive verdicts in the *billions*. In October, for example, a California jury awarded $28 billion to *one smoker* who claimed she never knew cigarettes were dangerous.

Besides being eye-poppingly excessive, punitive damages can be imposed over and over for the same offense—as the asbestos defendants are finding out. There are no protections against double jeopardy, nor—increasingly—any statute of limitations. All this might seem to violate the Eighth Amendment's provision against "unusual punishments" and "excessive fines." Unfortunately, back in the innocent days of 1989, the Supreme Court ruled that the Eighth Amendment applies only to criminal proceedings, not civil verdicts.

What makes lawsuits such an attractive investment is that there is so little downside. An individual lawyer who spends years pursuing a fruitless case may waste his time but little else. Besides, he knows he is inflicting the same costs on the defendant—which is often enough to force a settlement. The tobacco companies never lost a judgment on Medicaid, but still handed over $84 billion in fear of virtually opened-ended damages.

Almost unanimously, proponents of tort reform point to the lack of a "loser-pays" principle in American civil law as the reason lawyers can engage in this high-stakes crapshoot with little fear of consequences. Chief rainmaker Scruggs openly boasted that it pays to up the ante as high as possible. Suing for $20 billion instead of $20 million generates press coverage—crucial in stigmatizing an industry. It also gets juries salivating over "sending a message" and righting historic wrongs with bankloads of money.

So here's a proposal. Why not apply some of the principles that apply to American businesses to the law firms themselves?

First, let's say that for any lawsuit seeking more than $1 million in damages there should be a court user fee of one percent of the claim *if the case goes to trial.* It would be like paying $2 to enter a national park. And the analogy is not that farfetched: The plaintiff's bar is already campaigning for expanded courts (which are a public good) in order to accommodate all their lucrative new traffic.

Thus, for a $1 billion suit, the fee would be a mere $10 million, easily deducted from a winning case, although a noticeable burden to a loser. Since plaintiff's attorneys are *financial partners* in these ventures, they should be willing to put up the money. Now it's easy to see what lawyers would be tempted to do. They'd want to form a separate corporation for each lawsuit and declare bankruptcy if they lost. This happens all the time in other business dealings. That's the purpose of surety bonds. If a construction company contracts to build a highway for the state, it puts up a performance bond to assure it isn't a fly-by-night. Posting surety bonds would discourage plaintiff's firms from using the blunderbuss approach—bringing multiple lawsuits in as many venues as possible for maximum advantage.

Lawyers will argue that such a fee is unfair, that they are only "servants of the court," processing the legitimate claims of people who otherwise couldn't afford to pursue justice. But that is a polite fiction. The lawyers' share has become the *prevailing* interest. Requiring "Law, Inc." to act like any other business not only would help resolve the tort crisis, it would confirm the obvious—that the civil courts have become just another American industry, where ambitious entrepreneurs seek fame and fortune. ♦

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Both a Crime and a Blunder

How French foreign policy is destroying the Ivory Coast. By Roger Kaplan

AMERICANS have been getting a crash course in French foreign policy lately. For further insight, it may be instructive to cast a glance at Ivory Coast, a charming and until recently peaceful country on Africa's west coast. Dissatisfied with the policies of the democratically elected president, Laurent Gbagbo, the Quai d'Orsay, according to Ivoirian sources, engineered a violent intrusion by "rebels" from neighboring Burkina Faso and Liberia, then in late January convened a peace conference in a Parisian suburb at which President Gbagbo was advised to turn over the defense and interior ministries to his adversaries. It's as if Canada funded a gang war in New York and then told the city to name a latter-day John Gotti police commissioner.

The French relinquished their African empire in the late 1950s, when Charles de Gaulle decided on a strategy aiming at the leadership of Europe rather than the maintenance of overseas colonies. But the temptation to have it both ways was great, and the French set up what were, essentially, protection rackets in their ex-colonies, guaranteeing the security of the strongmen they put in place in return for sweetheart deals at all levels of the economy. At the same time, said strongmen were encouraged to share their own rake-offs with French politicians. Until very recently, when they finally encountered disapproving magistrates, French figures as diverse as Jean-Christophe Mitterrand (son of the late president) and the Gaullist notable Charles Pasqua had their hands deep in the tills of what was variously called *Françafrique* and the *chasse gardée* (the reservation).

Ivory Coast became the centerpiece of the system; within a few years after independence in 1960, Abidjan and environs had more French residents than in the colonial period. At present the permanent French population numbers some 20,000, with another 5,000 transients on any given day. They run cocoa and coffee plantations, banks and car dealerships, schools and, discreetly, until the late 1980s, government ministries. Ivoirians say the French act as if they own the place—which to a considerable extent they do.

While officially deploring the first coup in what had been a stable country, the French quietly congratulated the general.

The French investment was noted by international financial institutions, such as the International Monetary Fund and the African Development Bank, as well as by the State Department. Ivory Coast was the great success story, stable and modernizing, symbolized by its Manhattan-inspired skyline. Longtime president Houphouet-Boigny was praised for his wisdom and tolerance and his ability to maintain order. It is true that Houphouet refrained from playing the "ethnic card" that so many African despots found irresistible, and he succeeded in attracting entrepreneurial talent and hard-working types from up and down the rich, but politically unstable, west African coast. Still, Ivoirian writer Ahmadou Kourouma described him as without mercy toward his opponents.

In a sense, the French enjoyed a more enviable position in the neo-colonial years than in the colonial period, since they had the wealth without any obligation to improve the general welfare. In the 1990s, they decided to reduce their subsidies to Ivory Coast, as to the other West African countries, without lowering the profits they reaped from the commercial arrangements, written in Paris, that kept the country's considerable wealth passing through their hands. The most significant reduction of French aid was the withdrawal of subsidies to the *Communauté financière africaine*, the CFA. The result was the sudden collapse of the CFA franc, used in most of Francophone West Africa, at a time when there was a general depression in the commodities market due to over-supply.

This might have been a salutary shock, forcing the Africans to take charge of their own economies and adopt a realistic view of international competition. But when the Ivoirians suggested the quo for this quid might be new commercial arrangements ending de facto subsidies for French firms, the French shrugged. President Henri Konan Bedié, who had succeeded Houphouet in 1993, was in the pocket of the French. Bedié proved, after a few years, to be more corrupt and incompetent than was tolerable. A supposedly more competent technocrat, an ex-IMF official and former prime minister named Alassane Ouattara, presented himself, with French encouragement, as a viable replacement. Bedié fell to a coup led by a singularly stupid, if brave, general by the name of Robert Guei in 1999. It cannot be proven that Guei was a cat's-paw, but there was widespread surprise, not to say consternation, when he refused to relinquish power.

While officially deploring the first

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Supporters of Ivory Coast president Laurent Gbagbo burn the French flag during a demonstration in Abidjan, February 1, 2003

military coup in what had been thought a uniquely stable country, the French congratulated Guei quietly and assured Ouattara that his turn was next. General Guei, however, announced new elections. This posed a problem for Ouattara, a native of Burkina Faso ineligible to run for elective office in Ivory Coast. African affairs experts in Washington deplored the raising of "tribal" issues in Ivory Coast and warned that a non-Ivoirian should be allowed to run, regardless of the law.

Who were the Ivoirians to determine their own constitutional rules for presidential eligibility? With their eye on Ouattara, the French too late noticed the rise of a genuine democrat, longtime oppositionist Laurent Gbagbo, to whom the voters gave the presidency in October 2000. Gbagbo's supporters prevented General Guei from annulling the election. Ouattara appealed his exclusion, but it was upheld by the constitutional court. Gbagbo, a Catholic of leftist background belonging to the Bete people of the south, urged Ouattara's followers, primarily in the north, to calm down and join the political system.

Paris immediately began questioning Gbagbo's legitimacy. Against that backdrop, Gbagbo advised the French in early 2002 that the web of commercial ties between the two countries should be re-negotiated in view of new economic realities, including the withdrawal of French subsidies and American efforts to draw African countries into the global trade system. In September 2002, Guei again attempted a coup, and was killed. Ouatarra fled to the French embassy, then was spirited out of the country. Simultaneously, rebel groups the government believes to be armed by Burkina Faso took over key towns in the northern half of the country, while other insurgents, believed to be Liberian gangs of the type that have devastated Sierra Leone and Liberia in recent years, entered from the west.

France may or may not have banked on a quick military takeover, but the Ivoirian army, though forced to abandon several northern cities, prepared to stand and fight in the south, where most of the population is and where Gbagbo is wildly popular. Citizens' committees, called patriots, while possibly engaging in unjustifiable acts of vandalism and vigilantism against long-established immigrant populations in Abidjan, have led demonstrations in support of the beleaguered president. In the course of these, they have appealed to the United States to put pressure on the Quai d'Orsay to let their country be. The White House, preoccupied with other matters, has gone along with the Marcoussis accords, named for the Paris suburb where they were drawn up in late January. Tony Blair too has expressed support for French policy.

Surely Africa does not need another country descending into civil war. Already out of Ivory Coast's population of 18 million, a million have been displaced by the fighting and insecurity. Elected on a platform of economic growth and democratic reform, Laurent Gbagbo does not see himself as a war president. So far, he has resisted French pressure to give key ministries to the rebels, but last week he seemed to be groping for a compromise that would allow him to say he hadn't given in to blackmail. ♦

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Beating Up on Bullies

The latest feel-good fad in schools provides yet another excuse for bad folk music

By Matt Labash

Chippewa Falls, Wisconsin

Though I hadn't yet been born during the Great Folk Scare of the early 1960s, I'd like to think that if I'd had a hammer back then, I'd have chucked it at the heads of Peter, Paul & Mary. This is admittedly not a charitable impulse, nor one of which I'm proud. But it can hardly be helped considering the sheer number of musical/political atrocities they have visited upon our culture.

As popularizers of others' songs, they are partly to blame for the careers of John Denver and Gordon Lightfoot. As a solo artist, Noel Paul Stookey is responsible for the ubiquitous soundtrack of every middlebrow wedding, "The Wedding Song (There is Love)," while Peter Yarrow co-wrote the Me-Decade chestnut "Torn Between Two Lovers." With their whole-earth harmonic bleating and self-congratulatory preening, even their album titles ("Peter, Paul, & Mommy, Too," "Songs of Conscience & Concern") make one yearn for a good old-fashioned record-burning. Peter, Paul & Mary—"PPM" to the fans—can take a pro-marijuana song like "Puff the Magic Dragon" (in which Puff's dealer, "Little Jackie Paper," brings the doobie-smoking dragon "sealing wax and other fancy stuff," as they suspiciously frolic in "the autumn mist in a land called Honah Lee") and transform it into a sanctimonious morality tale. Yarrow, the song's author, has angrily insisted it's "not about drugs," but rather "the sadness of lost childhood innocence."

Lost childhood innocence is a subject Yarrow knows something about. In 1970, when he was in his early thirties, he pleaded guilty to "taking immoral and improper liberties" with a 14-year-old girl. He did three months of a one-to-three year prison term, and was later granted a full pardon by President Jimmy Carter. Still, even though he's proven a stable family man since, one might reasonably assume that this record would preclude Yarrow from spending lots of time around elementary and middle schools. One would be wrong.

For after 40 years as a political activist, Yarrow has now undertaken a campaign that he hopes will be his lasting legacy. This time, it's for the kids. As freedom fighters, PPM started out strong, singing alongside Martin Luther King in the March on Washington. But as their careers got longer, the issues got smaller. By the '80s, they were singing the praises of the Sandinistas. In the early '90s, Yarrow wrote a song using the words of another King—Rodney, not Martin. By 1996, Yarrow was spotted giving a benefit concert to support continued federal funding of Amtrak.

But in 1999, Yarrow's life and, consequently, the lives of millions of American schoolchildren were transformed. At the Kerrville Folk Festival, Yarrow heard a hit country song entitled "Don't Laugh At Me," which he decided to turn into an anti-bullying anthem, thus launching a movement. While the lyrics had been written by somebody else, they are PPM-pitch-perfect: "*I'm a little boy with glasses, the one they call a geek / A little girl who never smiles cause I have braces on my teeth / and I know how it feels / to cry myself to sleep*." From there, things really get maudlin, spiraling into the chorus: "*Don't laugh at me / Don't call me names / Don't get your pleasure from my pain . . .*" Yarrow has said he "shed a tear" the first time he heard the song. It reminded him of his own painful experiences being bullied by a football player: "He would call me [names]. That was very humiliating," Yarrow said. He was in college at the time.

The song, ideally suited to the trademark Yarrow whine, which resembles the slow leaking of air from a balloon, has been rerecorded by Peter, Paul & Mary and incorporated into a video and CD, the latter of which includes other PPM hits like "Weave Me the Sunshine" and "Puff the Magic Dragon." Both the video and CD serve as cornerstones of the "Don't Laugh at Me" curricu-

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lum, co-developed by Yarrow's non-profit "Operation Respect" in conjunction with Educators for Social Responsibility and another outfit called Adventures in Peacemaking. The anti-bullying curriculum comes in three incarnations (the Camp Program, Grades 2-5, and Grades 6-8). The materials include festive signs that say things like "Ridicule Free Zone" and "No Dissing Here"—proving that these '60s era holdovers are hip to the kids' lingo, or at least to the lingo they used back in 1992.

While there are any number of similar programs that aim to eradicate bullying in schools, "Don't Laugh At Me" is achieving critical mass. Given away for free, the curriculum has been implemented in over 15,000 schools and summer camps nationwide. The song (which Yarrow calls the "We Shall Overcome" of the anti-bullying movement), the video, and the guides have been given a tremendous push by everyone from state departments of education to the NEA to the National Association of Elementary School Principals.

Bullying, of course, is a new phenomenon only if you remember Cain's bludgeoning of Abel as if it were yesterday. Bullies themselves have been the stuff of nearly every great coming of age novel and film since time immemorial. From the Victorian-era Flashman in *Tom Brown's School Days* to the yellow-eyed Scut Farkus in *A Christmas Story*, the bully has served as a source of fear and object of ire, a mettle-tester and very often a muse. But only recently has bullying been treated as an "epidemic"—studied, pathologized, and in some instances criminalized by both the education establishment and lawmakers. The DLAM program in fact grows out of a generation's worth of activism.

While brown cheese and Lutefisk are Scandinavia's most famous exports, anti-bullying propaganda likely comes in a close third. So it has been since Swedish researcher Dan Olweus, the father of the anti-bullying movement, began publishing a steady drip of bullying scholarship from his perch at Bergen University in Norway in the 1970s. Since Olweus was the first person to study both bullies and their victims systematically, many of his conclusions have become articles of faith: everything from the notion that bullying has grown more serious and prevalent, to the assertion that bullies themselves are much likelier than others to have criminal convictions later in life.

Not surprisingly, with a purported increase in bullying—and with millions of dollars now available worldwide to study and implement anti-bullying measures—there has also been a spike in the supply of anti-bullying consultants. Olweus, like many other anti-bullying researchers, doubles as one. If you, as a school principal, feel bullying is a problem (or even if you don't but your school board does), you might be forced to adopt something like Olweus's anti-bullying curriculum.

In promotional materials for the Olweus Bullying Prevention Program—which calls for measures such as holding 20-40 minute-per-week classroom meetings on the subject—it is suggested that you buy a copy of Olweus's $22.95 book and $30 handbook for each staff member, along with his "Bully/Victim Questionnaire" software at $200 per school. As if that weren't burdensome enough, the materials state that "depending on the school's size," the program "will require a part- or full-time onsite coordinator."

Through most of history, no one needed social scientists to tell them kids were cruel, so bullying was considered an unfortunate but inevitable byproduct of school life—like the poor quality of cafeteria food, or the promiscuity of cheerleaders. But it is now a problem that educationists feel they must Seriously Address. Consequently, the anti-bullying movement has fanned out from Scandinavia, taking root in countries like Australia, Canada, and Great Britain.

Though the United States is a relative latecomer, the anti-bullying movement's flourishing in our country can be traced to a specific date: April 20, 1999, the day Eric Harris and Dyland Klebold took the lives of 13 people at Columbine High School. Indeed, in a strange way, school shooters have become the patron saints of the anti-bullying movement, serving as warnings of what happens when bullying goes unchecked. In the current climate, the horrifying specter of mass murder is, if not excused, at least understood—its gravity downgraded so long as the shooter once received a wedgie from the captain of the football team.

Nearly all anti-bullying proponents point to a 2000 Secret Service study reporting that in 37 school shootings since 1974, two-thirds of the attackers said they felt "persecuted, bullied, threatened, attacked or injured." Though Harris and Klebold weren't available to participate in the Secret Service's post-mortem on account of their suicides, there is little doubt they too had been branded outcasts by more popular classmates. But here, uncomfortable though it surely is, the chicken-and-egg question is in order: Were Harris and Klebold sociopaths because they were ostracized, or were they ostracized for being sociopaths?

Not to excuse any unkind behavior on the part of the Columbine jock class—the one that has become the national stand-in for popular kids behaving boorishly—but for a moment, put yourself in their place. If two guys came to your school in goth facepaint, boasting of mutilat-

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ing animals, spewing hate toward blacks and Jews, and voicing praise for Hitler (all of which either Klebold or Harris is reported to have done pre-shooting), even from the vantage point of enlightened adulthood, you might not ask them to sit by you on the bus.

Likewise, there's no evidence the simplistic approach of implementing anti-bullying programs can head off such incidents. When Charles "Andy" Williams shot 15 people at Santana High School in Santee, California, in 2001, he, too, claimed he was bullied. But three years before, his school had been the beneficiary of a $123,000 Justice Department anti-bullying grant.

There are, however, bigger problems with taking an increase in school violence as an indicator that bullying is on the rise. To begin with, school violence is decreasing. One statistical analysis after another shows school violence has been on the decline since 1992—a trend that pre-dates our anti-bullying movement by a good six years. Checking the Consumer Product Safety Commission's numbers against those of the National Center for Education Statistics (NCES), one learns that almost as many children were killed by toys such as non-powered scooters and balloons in 2001 (25) as were killed by school-related violence (38 homicides) in 1998-99. In fact, more people were killed by nursery equipment and supplies (51). According to the NCES, nearly every indicator of danger in schools is trending downward: from the number of students who claimed they were robbed, to those who got into fights.

The justice minister of Canada, Martin Cauchon, confessed he'd been bullied as a kid for a family name that sounds like the French word for "pig."

Nearly every indicator, that is, except one, which perhaps not coincidentally dovetails with the boom in anti-bullying programs sensitizing our kids to the phenomenon: The NCES reports that from 1999 to 2001, students claiming they had been bullied in the last six months rose from 5 percent to 8 percent. Depending on who's doing the asking and how, that number fluctuates wildly (I found some claims that over 80 percent of children report being victims of bullies). This, of course, is a fundamental shortcoming of anti-bullying research, as even the movement's founder, Olweus, concedes. It relies not on dispassionate and objective scientific observation, but on student self-reporting, which is entirely subjective. If one enters the emotional tsunami that is the psyche of the typical 13-year-old boy or girl, then asks whether anyone in these kids' world is picking on them, it's a fair bet that those bullying numbers will rocket through the stratosphere.

The problem begins with the fact that people can't agree on what bullying is. While many would insist—as Justice Potter Stewart said of obscenity—they know it when they see it, the results whenever people are forced to define bullying in black and white are laughable. As specified by lawmakers, bullying now encompasses a lot more than Big Johnny pounding the stuffing out of Little Timmy behind the school gym.

The National Conference of State Legislatures estimates that at least 17 states have passed some sort of anti-bullying measure. Here's a sampling of partial definitions: Colorado says bullying "means any written or verbal expression, or physical act or gesture . . . intended to cause distress upon one or more students in school." Oregon defines it as "any act that substantially interferes with a student's educational benefits." Vermont prohibits any physical or verbal hostility directed at, among other things, a student's race or sexual orientation or "marital status" (marital status?). Nevada defines bullying as a "willful act or course of conduct" that "is highly offensive to a reasonable person," which would seem to preclude the Nevada legislature.

With lawmakers so willing to institutionalize anti-bullying hysteria (some countries have actually passed national anti-bullying laws), it's small wonder to find all manner of overreaching. The current Miss America has decided world peace can wait: The eradication of bullying is much more important. In Ottawa, Canada, justice minister Martin Cauchon, confessing he'd been bullied as a kid for a family name that sounds like the French word for "pig," launched a multi-year anti-bullying campaign at a three-day conference entitled "Fear and Loathing—a symposium on bullying." The Canadian government supports about 100 anti-bullying projects, such as the one that uses positive role model "Buddy Beaver" to combat the nefarious "Punky" the skunk. So it is little surprise that Ontario Liberal leader Dalton McGuinty proposed $5 million worth of anti-bullying programs after his son was mugged—not in school, but on the way home from work.

In Edmonton, police asked the city council to enact bullying bylaws that would enable them to fine bullies up to $250—not just for stealing lunch money, but for "name-

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calling and intimidation." Here at home, down in New Orleans, school officials have begun levying fines against the parents of kids who fight at school. In Costa Mesa, California, a school district decided that not only was teasing possible grounds for expulsion, but even glaring at a classmate in a threatening manner might get a student bounced.

In Hastings, Minnesota, prosecutor James Backstrom decided that a student who picked a fight or harassed another would be punished with at least one night in jail (one female bully has been locked up 13 times). Now that the hurly-burly of the playground has actually been criminalized, it stands to reason that all sorts of boutique bullying complaints would emerge. These days, stories abound of "e-bullying," as well as "menace by mobile"—kids being bullied through messages left on their mobile phones (messages they're encouraged to save against the event of litigation).

Now pandemic, the anti-bullying movement is even extending to adults. Today, there are books like *The Bully at Work—What You Can Do to Stop the Hurt and Reclaim Your Dignity on the Job*. For years in Britain, some have been trying to pass a Dignity at Work bill, which defines bullying as "unjustified criticism on more than one occasion." *Computer Weekly* recently reported that one in five British computer geeks—or "IT professionals," if you prefer—claimed to have been bullied at work in the past year (including 17 percent of senior management).

Read enough of these stories—there are plenty more—and what a "reasonable person" might find offensive is not the prevalence of bullying, but the madness of those overcompensating to correct it in the anti-bullying movement. Which brings us back to Peter Yarrow's "Don't Laugh At Me" program.

Color me cynical, but the temptation when listening to Peter Yarrow warble "Don't Laugh at Me" is, of course, to laugh at him. Just picturing literal-minded second-graders trying to get through the lyric "I'm fat, I'm thin, I'm short, I'm tall, I'm deaf, I'm blind, Hey aren't we all?" makes one titter. But to see if the song passes the laugh test, I run it by my own personal focus group on such matters—my 11-year-old niece.

She goes to a tony private school, and is accustomed to faddish character-education Nerf-speak. She tells me that the kids at her school are part of a "trustworthy community"—so trustworthy, in fact, that they're forbidden to put locks on their lockers. "My best friend Loren just had 20 bucks stolen," she says. When I play her the song, she doesn't get past the first line without erupting in laughter.

This hardly seems enough to go on, however. At the "Don't Laugh At Me" website, there are all sorts of student testimonials to the benefit of such programs. In one, a student writes, "What is hate? Hate is like jealous fish that don't talk to each other. . . . Hate tastes like lemon, and it doesn't taste as good as honey. So, don't be jealous fish, let's be happy monkeys. In fact, let's be hate-busters."

In order to get a better sense of the program—and possibly transform myself from a jealous fish into a happy monkey—I head to Chippewa Falls, Wisconsin, for a "Don't Laugh At Me" (DLAM) workshop. On a freezing day, at the Cooperative Educational Services Agency, about 40 teachers, principals, and counselors pack into a multi-purpose room, their voices commingling in a pleasant 'Sconi-flavored hum of "you betcha's" and "Don'cha know's," as they discuss "dose Badgers" and the merits of the local Leinenkugel brewery's "Big Butt" Doppelbock.

Our facilitator, Sherrie Gammage, is from New Orleans, and works with Educators for Social Responsibility, who instruct teachers in all manner of trendy New Educationist theory, from conflict resolution to "emotional learning." Sherrie is a large African-American woman who describes herself as "abundant" (there's no large or small in a DLAM world). She holds out her hand by way of greeting, instructing, "Don't laugh at me." I try not to, but it's hard, since her own wheezing guffaw after every third comment makes me think of Smedley the cartoon dog.

Sherrie, whose students call her "Momma Sherrie," comes off less like the flats-wearing, macrame-haired, Hillary-at-Wellesley type you picture populating her profession, and more like the sassy neighbor on a UPN sitcom. She's squeezing two days of DLAM instruction into a single day, so she tells us not to panic. "Just sit back. Chill. Think of yourself as a pot roast marinating," she says.

"We're gonna have fun today, we're gonna laugh, we're gonna joke." As she says this, she cuts her hand on a piece of paper. A school nurse rushes to her aid, applying a Band-Aid. "I love to be taken care of by the mommies," she purrs. Sherrie uses our input to come up with classroom rules. We are allowed to "burp, sneeze, and cough because those are natural organic qualities." We can giggle. There are no tests. The only thing she asks of us is to "pay attention to what has heart and meaning for you," and to "speak your truth, but only as you feel safe enough to do it." She entrusts us with responsibility, because we are, she reminds us in the self-congratulatory language of the anti-bullying movement, not only adults, but "adults committed to a certain values and way of being. Take care of yourself."

Sherrie makes us watch a video featuring our maximum leader, Peter Yarrow. He brings us greetings, talking

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about the beauty of "peace education work" and the "heartfelt message of music" that can begin to launch us on "an extraordinary adventure, a pathway to doing something that might seem impossible." With all his world-of-wonder oiliness, he sounds like Willie Wonka without the good humor.

Sherrie gives us a bunch of scary statistics on school violence: One claims that 160,000 students skip school every day because of fear. (I later check the literature for purposes of comparison, but can find no study on how many stay home to watch *The View*.) Sherrie tells us the importance of defining bullying so we can combat it. While she allows there are many definitions, she settles on one from Olweus: "A person is being bullied . . . when he or she is exposed repeatedly and over time to negative actions on the part of one or more persons."

I head to Chippewa Falls, Wisconsin, for a "Don't Laugh at Me" (DLAM) workshop. Our facilitator holds out her hand in greeting and says, "Don't laugh at me."

Glad that's settled, we move on to one of oh-so-many class-participation exercises, some of which I evade more successfully than others. After showing an additional video of Yarrow singing the DLAM song to "put us in a place where we can get in touch with our feelings," Sherrie pairs us off to discuss our experiences of being bullied and how we dealt with them.

My partner is Mike Erickson, a bespectacled middle-school principal with an avuncular, honest face that resembles Garrison Keillor's without all the nosehair. Sherrie tells us to be good listeners, to show empathy, to be conscious of "eye contact, of the way you hold your arms. Think of yourself as a vessel." I am still thinking of myself as a pot roast, but I manage the transition. I almost tell Mike about how I earned my seventh-grade nickname, "Crusty," but then think better of it. "It wouldn't put me in a safe place," I say. "Okay," he answers understandingly, making eye contact.

Instead, I tell him about how, in fourth grade, two classmates decided they'd jump me after school each day. I fended them off for a while, but I was outnumbered. So after four or five days of this, I used my "interpersonal skills," as the conflict resolutionists would say, and rallied the rest of the male population of the class to wait in ambush for my assailants. The next time they lunged at me, my friends rode in like the cavalry and beat the crap out of poor Michael Palmer and Michael Cassidy. They all ended up in the principal's office, while I made it unmolested to the bus. It wasn't my finest hour. But the Michaels never bothered me again.

Sherrie tells us it's now our partner's turn, and Erickson recounts his own travails with bullying. When he was in seventh grade, he says, an older kid would always throw him a sharp elbow as he got on the bus. Every day he dreaded it. Until one day, he came up with a solution: He slugged the bully in the face. "Then I jumped on top of him," he says, with barely contained relish. "Ya hear ya should never get in a fight," Erickson says, "but there comes a point . . . " I ask Erickson whether, as a principal, he ever gives that advice to his students—whether he ever tells them what parents have been telling their kids for ages: to stand up to a bully. "As a parent I might," he says, "but as a principal, I'd never tell them that."

No doubt it would be a great way to get hit with a lawsuit. Still, Erickson is frustrated. "When kids come to me with harassment, it's difficult, because sometimes it doesn't help when I talk to a kid who's harassing another kid. . . . I don't have time to go through an eight-month program teaching them how not to harass kids."

Mike and other teachers throughout the day tell me parents are no longer teaching kids the fundamentals that used to get covered at home. It's not that the parents aren't teaching anything, the teachers grumble. They teach the kids how to be materialistic (most wouldn't even think of letting their kid's 16th birthday pass without getting them a car). They infuse their kids with loads of self-esteem ("They tell their kids they're better than everyone else," says one counselor). They teach them how to be oversexed, so that a gaggle of typical 12-year-old girls walking down the hall in their low-cut butt-cleavage-baring jeans looks like a gang of underfed plumbers.

What they often don't do, complain the teachers, is instill a sense of right and wrong, including the need to show kindness to others. Which is perhaps why we're stuck at an in-service with all this talk of safe spaces, using innocuously assertive "I" messages instead of more accusatory "you" messages. It's quite the balancing act. Especially, Mike whispers, since "what one person sees as harassment, the other says, 'Oh, he can't take a joke'—it's a gray area."

When we head back to the group and share our childhood bullying stories, I notice that a surprising number of

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successful anti-bullying interventions recollected by these mild-mannered Dairy State teachers end with the victim slugging the tormentor, never to be tormented again. During our "Connections" exercise, in which "we say anything we're thinking, feeling, or just any gifts you wanna give the group," I bring this up to Sherrie. She looks as if I've committed high heresy, and cautions that I only heard the stories people "felt safe enough to share."

This is a key tenet of the anti-bullying movement, whose theme song ought to be not "Don't Laugh At Me," but rather Morris Albert's '70s anthem "Feelings." That's what curricula like this are all about—nothing more than feelings. Knowing yourself. Revealing yourself. Feeling yourself. Even when the curriculum pays lip service to noble traits and actions (empathy, standing up for the weak, and so on), it buries them under so many layers of goo that the altruistic becomes the narcissistic. In the DLAM workshop and teacher's guides, feelings are highlighted in every single exercise. We play a "feelings pantomime," and take "feelings inventories" with 100-word-long lists of feelings—because Sherrie says children need to be able to express their feelings, especially "when their needs are not being met."

Think I'm exaggerating? A typical sentence from a curriculum guide boasts of supporting "the healthy expression of feelings in young people, including how to build a feelings vocabulary, encourage discussion about feelings, reflect back young people's moods, support young people's empathy, infuse feelings reflection across the curriculum, and much more."

Role-playing games have names like "Emotion Motions," "How Would You Feel If . . . " and "The Feelings Echo," in which students complete the sentence, "I feel cared for when . . . " When they are asked to "play mirrors" with another child, they concentrate not on the other person, but on what it feels like "to mirror someone." Kids are instructed to use "journaling" to help them "explore feelings." They are told "all feelings are important," and they are to "brainstorm about how to share what they've learned about feelings with the rest of the school." Ultimately, after signing off on their "Constitution of Caring" (and after closing out the day's session with the recommended rendition of "If I Had a Hammer"), they are encouraged to share their "achievement" with outside officials like the President of the United States, as if he really needs to be bothered because Caitlin is proud of herself for writing in her feelings journal.

In the name of discouraging bullying and fostering empathy, students are told to "use class meetings to talk about feelings," to say "one word that describes how they are feeling that day." Their teachers, after they affirm that "crying is okay—regardless of our age or gender," are to "infuse feelings into [the] curriculum"—for instance, by discussing how figures from history felt about events of their day. At camps using the DLAM program, cabins are to "challenge one another to a game of 'Name that Feelings Tune'" (in which campers compete to "name as many songs as possible that include words expressing feelings.")

By now, I admit, I am feeling downright skeptical. To make sure I'm not shortchanging the DLAM program, I go the next day to see it in practice. A school counselor I've met at the workshop, Tali Kempf, allows me to sit in on her DLAM instruction of a group of students at an intermediate school in Eleva, Wisconsin. A spunky, gifted communicator who exhibits total control over a couple of fifth-grade classes, Kempf is hardly the hippie-dippy, peace-and-love type. When I tell her that I'd really like to see her force her fifth-graders to sing "Puff the Magic Dragon" as the curriculum suggests, she rolls her eyes conspiratorially. "I don't think I can get them to do that," she says.

The rest of the way, however, she goes by the book. She tells the kids, with straight-faced understatement, that "this program talks a lot about feelings." She has them close their eyes, then plays the DLAM song. She employs reverse psychology when a good number of kids start giggling. "Sometimes we laugh when something is really close to our hearts," she says. "So don't judge each other if you hear someone laughing." She has the kids sit in a circle on the floor beneath posters proclaiming positive messages like "101 Ways to Praise a Child." A Koosh-ball is thrown to a child, indicating it's his turn to speak. One or two catch it in the face, but that doesn't stop the kids from completing the exercise with gusto. Their task is to mention as many put-downs as they can.

They quickly warm to it. There's all the usual fare. A mousy, hesitant kid with frames as big as his head says, "Some people will call you four eyes." A girl says the tomboys in the class make fun of her for wearing pink. When I interview kids on the side, one tells me he gets called "roly poly oly because I'm fat." Another with a chapped ring around his mouth tells me, "I have a licking problem, and some people call me Licker Lips."

DLAM instructors like to say that there are no wrong answers. And that becomes apparent as the minutes drag like hours. At first sensitized to the whole world of slights that have been directed at them, the kids gradually drift away from actual ridicule and shoot off in every direction. One girl says she is teased for liking somebody. A white teacher joins the fun, and says reverse discrimination against white people is a problem, "even though everyone around this area is very white." A boy

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says that a good example of a put-down is "maybe when you go to the waterpark, and when you get there, there's not a lot to go on."

"Ohhh, disappointment, yeahhh," seconds Tali.

After the session, I grab seven kids (four girls and three boys), and ask them questions. They seem fairly confused by this turn of events. When asked how many of them consider themselves bullies, all seven say they are. When asked how many of them consider themselves bullying victims, all seven are just as convinced. I'm put in mind of something my wife, herself a former first grade teacher, told me after she taught a required lesson on "inappropriate touch." The next day, little Tyler could not remove a piece of lint from little Ashley's sweater without being accused of "inappropriately touching" her.

Despite the drawbacks, anti-bullying programs like these might still have some value if they did what they purported to do. But there's not much evidence of that, and some to the contrary. Bergen University's Dan Olweus, for instance, claims that after his anti-bullying program (which is less touchy-feely than DLAM) was implemented, instances of bullying declined 50 percent or more over a two-year period. But other anti-bullying researchers say those numbers have not been replicated. Olweus himself has lamented the elusiveness of much anti-bullying work, citing a study that found just 10 violence-prevention programs out of 400 met any specified minimum criteria for evaluation.

Likewise, while much anti-bullying research reads like propaganda, two clear-eyed studies by a couple of Australian professors—who generally support anti-bullying programs—have shed greater light on the discipline. Ken Rigby, of the University of South Australia, examined 13 studies of the effectiveness of anti-bullying curricula from around the world. Of those, 12 found at least slight decreases in some kinds of bullying. But 7 reported simultaneous increases in other kinds of bullying. The University of Western Sydney's Robert Parada reached an even bleaker conclusion. His two-year study, believed to be the largest of its kind, surveyed 4,500 high school students who'd participated in anti-bullying programs. He found that the level of bullying they experienced, despite all the peer support, mediation, and self-esteem-building, "remained exactly the same" as ten years before, he told the *Sydney Morning Herald*, the only change being the new political pressure to say it wasn't.

What is impossible to quantify, however, is the deeper effect of trying to eradicate all bullying. Richard Hazler, a professor of counselor education at Ohio University, who has taught seminars on curbing bullying, says, "There's a normalcy in this whole process. I don't want to say that bullying is okay. But it's a teaching tool for kids. It teaches them to get along with people, how to use power, the victims—how to obtain power when not in power positions. How do we stop bullying and victimization? I hate to make this case in public. But we don't entirely want to—because if kids didn't have it—how would they learn? These are mistakes they're making. We want a cooperative atmosphere, but we also want to show them how to deal with aggression."

One kid says he gets called "roly poly oly" because he's fat. Another with a chapped mouth tells me, "I have a licking problem, and some people call me Licker Lips."

Back in the fifth-grade classroom, Tali winds things up. After a 25-minute discussion of put-downs, we are in touch with our feelings. I know I am with mine. Glancing down the "Don't Laugh At Me Feelings Inventory," I quietly reflect that I am being made "afraid, anxious, and exasperated" by what we are doing to these kids. I am "horrified, nervous, and paranoid" that we are not teaching them resilience, but rather, turning them into human flypaper. Every insult—even ones formerly sloughed off—now sticks, and gets reclassified and inflated, as children are encouraged to nurse the memory of petty hurts. I feel "sad, sorrowful, and suspicious" that we are teaching them to be nervous nellies and lunchroom litigators. That we are teaching them to feel "persecuted, self-pitying" and pusillanimous—the last of which is not on my feelings inventory but is a feeling I nonetheless feel entitled to express.

The whole thing makes me "contemptuous, crabby, and cruel." Until what happens next. As Tali concludes the class by once again playing Peter Yarrow's "Don't Laugh At Me," I hear a fifth-grader say as he exits the room, "What an awesome song!" I have a revelation—that things are much worse than I believed. I feel "grief-stricken, heartbroken, and helpless." For I now see it clearly: We are raising something much more depressing than the wussified children I've just described.

We are raising the next generation of Peter, Paul & Mary fans. ♦

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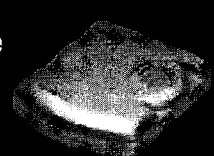

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Scotty

All the news that's fit to schmooze

By Andrew Ferguson

James Reston in 1957. Bettmann / CORBIS.

Journalism is a character defect. I think most non-journalists would agree with this. It is life lived at a safe remove: standing off to one side of the parade as it passes, noting its flaws, offering glib and unworkable suggestions for its improvement. Every journalist must know that this is not, really, how a serious-minded person would choose to spend his days. Serious-minded people do things; a journalist chatters about the things serious-minded people do, and so, not coincidentally, avoids having to do them himself. A significant body of research indicates that non-journalists find us insufferable, perhaps for this reason.

Every so often, however, the itch to join the parade proves irresistible, and where that happens you are apt to find a career like that of James B. Reston. More commonly known by his childhood nickname "Scotty," Reston was the Washington bureau chief of the *New York Times* and for forty years its marquee columnist. He is nearly forgotten today, though he died not so long ago, in 1995, at the age of eighty-six. It seems only journalists remember him, and not many of them. One of these is John F. Stacks, a former reporter for *Time* magazine who spent ten years researching and writing Reston's biography, published as *Scotty: James B. Reston and the Rise and Fall of American Journalism*. The book is kindly, readable, and only occasionally as pompous as its subtitle. It is also well timed. Reston's once-celebrated career took him as close to the center of things as journalism can, and he deserves a final tribute before the curtain closes on him for good.

Scotty
James B. Reston and the Rise and Fall of American Journalism
by John F. Stacks
Little, Brown, 372 pp., $29.95

Reston was born in Scotland and emigrated with his parents at the age of ten. He was raised working class in Dayton, Ohio, and later secured a modest education at the University of Illinois, where, exploiting the peculiar racial endowments of the Scotsman, he led the Fighting Illini to a Big Ten trophy in golf. He was an ambitious man but never intellectually so; he was drawn to the school's journalism program because it had no language requirement. After a series of knockabout jobs—he graduated into the teeth of the Depression—he made his way to New York and the Associated Press. The AP sent him to London, where he covered sports and "society." He also found time to cultivate the friendship of the *New York Times*'s bureau chief, who over the course of several months convinced the home office to hire him. By the beginning of World War II, his steady ascent had begun.

Greatly admiring Reston—calling him variously the "greatest," "the dominant," "the most influential," "the best" journalist of his time, "perhaps of all time"—Stacks works hard to force the reader to share the admiration. I suppose this is why he makes much of Reston's background as an immigrant. Though Reston would gain fame as the foremost practitioner of insider jour-

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Little, Brown

The London bureau of the New York Times *as World War II begins.*

nalism, with intimate access into the remotest reaches of officialdom, he was "by definition an outsider," Stacks says, plagued by the "doubts and fears" that legend tells us are the immigrant's lot.

The biographer produces no evidence for this, however, and there's a good deal of evidence to the contrary. While posted in London, Reston and his wife enjoyed the hospitality of such luminaries as the Astors, and immediately on coming to Washington after the war, where they lived more or less for the rest of their lives, they acquired a fashionable address in Georgetown, befriended the Alsops and the Achesons, and joined the salon of Alice Roosevelt Longworth. He was a member of half a dozen gentlemen's and country clubs. There is no record of his appearing ill at ease at any of them.

The keys to success he possessed as a natural gift. He wrote well. He had unqualified confidence in his own opinions, no matter how ignorant he was of the subject, and he wore his omniscience casually, like a rumpled Burberry. He knew how to charm sources and impress them with his discretion. Just as important, he could oscillate gracefully between abject sycophancy and Olympian condescension. Churchill's description of the German national character—they are "either at your feet or at your throat"—exaggerates the Reston style, but only slightly. He was generous to those, like his clerks, who were so far below him on the ladder as to pose no challenge. To those holding on for dear life a rung or two above, he was friendly but cunning; and to the Ochs and Sulzberger families, who owned the *Times* and controlled the ladder, he was boundlessly solicitous.

Not long after coming to the *Times*, Reston hired on as administrative assistant to Arthur Hays Sulzberger, the *Times*'s publisher. It seemed an odd detour for an ambitious young reporter, but Reston knew what he was doing. Boss and protégé toured the world together, and the younger man took to calling Sulzberger "Mr. Gus," a nickname that carries the unmistakable squeak of the houseboy. Whatever the price in self-abnegation on Reston's part, however, the friendship paid for itself many times over.

When Reston moved to Washington, Sulzberger made sure he could write and report free of the imperious oversight of Arthur Krock, the paper's capital bureau chief. After Reston's reputation grew—he enjoyed several scoops built on leaks from friends, published a well-received book, won the obligatory Pulitzer—Sulzberger deposed Krock and replaced him with Reston. The newspaper helped him buy a large house near the National Cathedral and paid for its renovation. He traveled by whim and enjoyed a nearly limitless expense account, along with a Mercedes Benz and a driver to go with it. The *Times* put his wife on the payroll as a "researcher." Mr. Gus even gave Scotty his old houseslippers to wear. And at his death, in 1968, the publisher dug into his multimillion-dollar estate and offered his protégé a final gesture of noblesse oblige: a check for $1,000.

"Who in our profession has been more faithful in redeeming the obligations of a lifetime?" Scotty had written Mr. Gus in earlier days. "Who has carried the baton over rougher ground? Who has taken from one generation a nobler tradition and sustained and enriched it over so many years?" The answer, of course, was Mr. Gus. The toadying tone makes a reader cringe today, but for Reston it came much too easily. He deployed a subdued version of it for his columns, to describe the statesmen and politicians who were his sources and dinner partners. In strategic flattery, accuracy is always a secondary concern. He was, of course, wild about the Kennedys, particularly Jack, the master political illusionist whom Reston praised for his effort to "dispel some of the illusion of political life and deal with things as they are."

Such tributes were tossed like pixie dust over senators, congressmen, bureaucratic functionaries, and diplomats, men hugely important at the time and now long forgotten. He often made their case better than they could make it themselves. Once, when Secretary of State Dean Acheson was under fire for not abandoning his protégé Alger Hiss, Acheson justified his loyalty by citing the Sermon on the Mount. Thinking his friend's explanation too vague, Reston devoted several inches of column space to reprinting thirteen verses from Matthew's Gospel, as a way of getting Acheson's point across to a skeptical public. (Today all the sermons in the *Times* are secular.) Acheson, needless to say, was grateful for the favor.

There was much for Reston's sources to be grateful for. Kennedy, John Foster Dulles, Henry Kissinger, and countless others often used his column as a kind of bulletin board, floating ideas, registering public complaints, making feints toward allies and enemies. The benefit ran both ways. The officials got their messages ventilated in the authoritative columns of the *Times*, while everyone else—readers, colleagues, and editors in New

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Reston, third from left, joins Meet the Press *in 1951 to interview John F. Kennedy.*

York—marveled at Reston's insider knowledge. It is one of the paradoxes of journalism: The more servile a reporter is toward his sources, the more authoritative he can appear in print. An excellent example of the method involved Senator Arthur Vandenberg, the famed Republican isolationist who, at the close of World War II, suddenly became an ardent internationalist and anti-Communist.

Vandenberg's conversion was a signal event in American politics, solidifying the bipartisan foreign policy consensus that confronted the Soviets for most of the Cold War. Reston played a crucial role in it. As Vandenberg planned the speech announcing his change of heart, he sought out Reston for counsel, and the columnist obliged, though to what degree is unknown. *Time* magazine later called Vandenberg's address "the speech heard 'round the world." Did Reston write it? Testimony differs. His famous friend and fellow columnist Walter Lippman said that Reston did, with Lippman's help; Reston years later denied it.

Irrefutably, however, Reston read and commented on its various drafts, and when Vandenberg offered it up on the Senate floor, the columnist used the front page of the *Times* to hail it as "wise and statesmanlike." Vandenberg returned the favor by sharing with Reston the cascade of intelligence that came his way as the chairman of the Foreign Relations Committee and de facto congressional leader of America's new containment policy. Three years later, Reston wrote an article in *Life* magazine "making the case" for a possible Vandenberg presidential campaign. And a few years after that he favorably reviewed, in the *Times*, a collection of Vandenberg's speeches, including the speech he himself had been involved in.

The recent canons of the trade, such as they are, require a contemporary reporter to be shocked at this chumminess between hack and source. Stacks's view is less righteously indignant, and more ambivalent—and in the end, sorry to say, incoherent. He seems relatively undisturbed that Reston served as stenographer to Vandenberg, Kennedy, Adlai Stevenson, and other figures of the dimming past; then he erupts in disgust when, at the end of his career, Reston shared the same relationship with figures of more recent memory—Henry Kissinger, for example. What accounts for Stacks's shifting judgment isn't clear. Incoherence is a common hazard for journalists who dabble in ethical judgments.

Certainly the disdain toward Reston was widely shared by the time he retired in the late 1980s. The younger generation of reporters who had once revered him now saw him as irretrievably compromised, a windy old establishmentarian, carrying water for the ruling class. Several of them collaborated on an indictment that appeared in a journalism magazine called *More*. "Some of those who worked for and with Reston over the years," the authors wrote, "wish that he were a little less cozy with power, a little less reverential toward the System." But he had always been cozy with the System; his coziness had been the source of his own power and the reason he had been revered. What had changed, as he grew older, was the attitude that journalists were supposed to have toward the System. (How I love that capital "S.")

In the end, of course, Reston's intimate involvement in the affairs he covered isn't hard to explain. He wasn't comfortable with the pose of the contemporary journalist, standing off to one side, watching the parade as it passes. He wanted to join in. "There was, at the heart of Reston's style of journalism, a sense of common purpose with the government and political leaders," Stacks writes. "The press and the government . . . were seen by Reston as collaborators in one enterprise, the preservation of the United States of America."

Reston began his career at the *Times* the day Germany crossed into Poland. He wrote his last column the year the Berlin Wall came down. His style of journalism was an artifact of the Cold War. When he let Kennedy use his column to send signals to Nikita Khrushchev, or lent his skill to Vandenberg to reinforce the anti-Soviet consensus in American diplomacy, he wasn't acting as a reporter but as a patriot. This urge may be a dereliction of duty in the journalist, but it is a sign of decency in the man. That the two impulses in journalism should so often be at odds—duty versus decency—tells us more about the trade than most of us care to know. ♦

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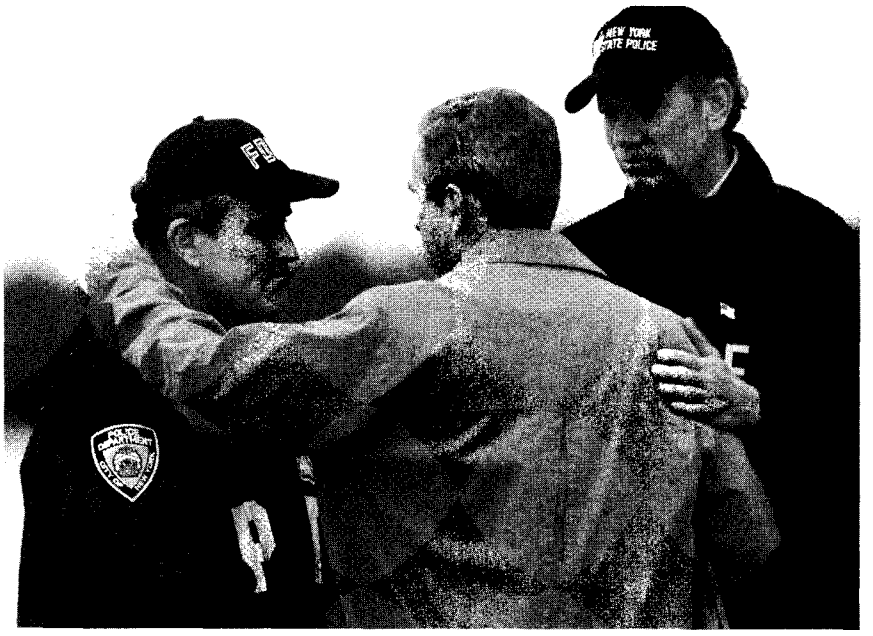

Giuliani, Bush, and Pataki at the site of the World Trade Center. Reuters.

Gotham Goes Broke?

One New Deal was enough.

BY VINCENT J. CANNATO

In 1918, the philosopher John Dewey wrote about the "social possibilities of war." World War I presented Progressives like Dewey the opportunity to voice support for their vision of government's role over the economy. Higher taxes, economic planning, and the regulation of wages and work hours were all unthinkable in peacetime. Yet war brought with it a sense of national unity that provided a rationale for the dreams of men such as Dewey. Ever since, liberals have been looking for war's moral equivalent.

So it came as no surprise that after September 11, many American liberals saw opportunity in tragedy. The nation was more united than it had been in decades. Fighting the war on terrorism, rebuilding lower Manhattan, and strengthening national security all seemed to demand a powerful (and expensive) response from the federal government. Could this mean an end to the Reagan-era skepticism about big government?

New York senator Charles Schumer articulated this view in the *Washington Post* two months after the terrorist attack. He wrote that the "the tectonic plates beneath us are inexorably moving us to larger federal involvement" and that a "'new' New Deal is upon us." The article was triumphantly entitled "Big Government Looks Better Now."

A New Deal for New York
by Mike Wallace
Bell & Weiland, 128 pp., $18.95

But the recent off-year election shows how little has actually changed on the domestic front. Even the scandals surrounding companies like Enron have barely budged Schumer's "tectonic plates." But this will most likely not deter other voices from joining the "social possibilities of war" chorus, the latest of whom is Pulitzer Prize-winning historian Mike Wallace.

Wallace's *A New Deal for New York* begins with a compendium of ideas for rebuilding New York in the wake of 9/11—not just lower Manhattan, but the entire city. From reviving and diversifying the city's economy, to improving its infrastructure, to increasing affordable housing, many of Wallace's ideas are culled from various organizations, think tanks, and interest groups throughout the city. (Curiously, Wallace ignores the right-of-center Manhattan Institute.)

Politics aside, this section of the book teems with energy and a love for New York that is unmistakable. Ideas for the city's renewal—some reasonable and some half-baked—leap from nearly every page of the book. The redevelopment of the former World Trade Center site has opened up discussion about further improvements in the city's infrastructure. To this debate, Wallace's book is a welcome addition.

But Wallace does not stop there. Like Schumer, Wallace sees the war on terrorism as an opening for something more far-reaching. "Catastrophe," he writes in the spirit of Dewey, "has presented us with a great, historic opportunity." The answer to many of the nation's ills, he argues, is to be found "inside the box" with "a massive program to create and enhance the nation's social capital. . . . What we need, I think, is a new New Deal."

Conjuring up images of noble relief programs, compassionate social insurance plans, and grand public works projects, Wallace wants Americans to abandon their skepticism about government and their aversion to taxes and warmly embrace the spirit and policies of the New Deal, not just for New York but for the entire country.

But is this really what the country needs? The New Deal still exerts a considerable influence over modern America; take for example Social Security, the Securities and Exchange Commission, and the Federal Deposit Insurance Corporation. Yet the rationale for a "new New Deal" is hardly self-evident.

Proponents of greater government activism try to evoke memories of the Great Depression as a rationale for their policies. That's why Democrats speak of the "worst economy since Herbert Hoover." Wallace gamely tries to convince the reader that the recent mild recession is 1929 all over again with "palsied producers, listless

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investors, persistent unemployment, maxed-out consumers."

Yet Wallace's dark view of the American economy is unconvincing. One need not rehash the dire economic numbers of the 1930s to know that our current economic situation, if not ideal, is hardly catastrophic. Of course, if things were as bad as Wallace says, why would the average taxpayer in tight financial straits want to pay more taxes to support the grand vision of government set forth in *A New Deal for New York*?

Wallace is quite cavalier about financing the many proposals throughout his book. "First, we must firmly reject the notion that 'there's no money'; . . . it isn't true; there's plenty of money around." It should come as no surprise that what Wallace really means is that taxes are too low. I quickly gave up tallying the cost of all the programs Wallace proposes, as well as the amount of the new taxes needed to pay for them. Suffice it to say, the numbers are substantial.

The issue of taxation has indeed been the Achilles' heel of modern American liberalism. One reason for the popularity of the New Deal was that so few people actually paid to fund it. In 1939, only 4 million people paid personal income taxes (out of a population of around 130 million). It was not until World War II that the tax burden began to hit the middle class in any real way, leading to the institution of the payroll deduction. This democratization of taxation has greatly affected attitudes toward government, and defenders of activist government still haven't quite come to grips with it.

Liberals dismiss talk about taxes as a form of selfishness on the part of an ungrateful or ungenerous public. Tax the rich, they say. But progressive federal taxation has hurt New York City, with its hyper-wealthy enclaves. As people like Pat Moynihan have repeatedly pointed out (and Wallace acknowledges), New York simply does not get as much back from the federal government as it sends to Washington in taxes. Every time Jerry Nadler and Charlie Rangel call for more federal taxes, they are simply digging a bigger hole for their city.

Wallace also needs to convince those pesky taxpayers that these new programs will actually work. He needs to explain how a government that can't operate an efficient Department of Motor Vehicles can run an increasingly larger share of the economy. This is not to say that government can't do anything right, but the shoulders of bureaucracies (especially in cities) are simply not strong enough to bear the kind of burden that Wallace, Schumer, and others want them to carry. Wallace supports a government-funded venture capital program, yet why should government be any better at picking successful businesses than the market?

Beneath the surface of this book lies a deep mistrust, bordering on distaste, for the private sector. Although Wallace pays lip service to the idea of entrepreneurial energy, it seems that too often the private sector is seen merely as a cash cow to finance the schemes and dreams of academics and activists. Creating a system of national health care, contrary to Wallace's most urgent wishes, is not going to stimulate the commercial energies of the city or nation. The great flaw of FDR's New Deal was that it ultimately failed to spur much economic growth. Wallace does little to suggest that a "new New Deal" would be any different.

Skepticism of New Deal-type programs, though, is not restricted to free-market models. Many historians criticize the Federal Housing Administration and the Home Ownership Loan Corporation for subsidizing suburban development at the expense of cities. Robert Moses, New York's New Deal hero of the 1930s, is now condemned for sabotaging the city with his road-building obsession. And nearly everyone—left and right—agrees that urban renewal and high-rise, low-income, public housing were well-intentioned government failures.

If Wallace's quest for a "new New Deal" is at best quixotic, he still makes some good points. He is correct that for decades New York has largely ignored its manufacturing sector and that the city's economy needs to diversify beyond finance. He also is right that the tactic of corporations finagling large tax breaks from local government by threatening to move is often a velvet-gloved form of extortion.

Yet what is oddly missing from this book is any acknowledgment of the strides New York City made in the last decade toward economic and social revitalization. The rebirth of New York City in recent years is one of the great stories of the 1990s, but one would be hard-pressed to find a good word about it in this book. The urban policies of Rudy Giuliani were not in the New Deal tradition and therefore Wallace has little use for them.

This historical amnesia also goes hand-in-hand with a sometimes snarky tone that substitutes caricature for sound historical and political judgments. Phrases like "the Lay/DeLay Axis of Avarice" or the repetitive use of "Big Guv'mnt" might elicit howls of laughter from Wallace's colleagues at the *Radical History Review* collective, but they quickly become tiresome and cheapen Wallace's overall argument.

Maybe these outbursts mask something deeper. Liberals often accuse conservatives of yearning for a more traditional past where women did not work outside the home and a laissez-faire government kept its nose out of the economy. Yet nostalgia, that most reactionary of emotions, seems to have crept into the ideology of our most "progressive" thinkers. As historian John Patrick Diggins has written, "nostalgia is one way to ease the pain of the present." Adrift and confused, the left has little to offer other than a longing for a misunderstood past.

The New Deal was a historically distinct era, created in reaction to very serious problems unique to the 1930s, and supported by a political coalition that has long since vanished. Barring another Depression to rival the 1930s, it's highly unlikely that America will grant Wallace's wish. We can't restore the New Deal any more than we can recreate the administration of Calvin Coolidge or the mythical world of *The Waltons*. Nor should we want to. ♦

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Who Votes? Who Cares?

Politics in the era of the vanishing voter.

BY DAVID LOWE

Is American democracy in decline? One popular barometer, voter turnout in national elections, would seem to suggest so. Consider the following: In the 1960 presidential election, 63 percent of the electorate cast ballots. By 1996, that number had dropped below 50 percent for the first time since 1924 (it climbed back slightly over 50 percent for the closely contested 2000 election). The numbers descend further in non-presidential years such as 2002, when, with control of both houses of Congress up for grabs, fewer than two in five bothered to vote. (By comparison, in last September's national election in Slovakia—a country that didn't exist a decade ago and which lacks a democratic tradition—the turnout rate was 70 percent.)

The Vanishing Voter
Public Involvement in an Age of Uncertainty
by Thomas E. Patterson
Knopf, 196 pp., $25

Downsizing Democracy
How America Sidelined Its Citizens and Privatized Its Public
by Matthew A. Crenson and Benjamin Ginsberg
Johns Hopkins University Press, 244 pp., $29.95

The U.S. turnout rate statistic is somewhat misleading, since the Census Bureau includes in its universe of eligible voters three disqualified subgroups: illegal immigrants, convicted felons, and prisoners. Since the modern voting percentage peaked in 1960, those populations have increased, accounting for some of the overall decline. Also frequently overlooked is the large state-to-state variation in voter turnout. Take the recent senatorial races in Minnesota (traditionally a high turnout state) and South Dakota: elections with national significance, large media interest, and robust get-out-the-vote campaigns. In both elections, turnout exceeded 60 percent. Clearly, under the right conditions, Americans can be motivated to turn out in significant numbers.

Still, there is no denying the overall downward trend, which has been strong enough to overcome a number of counter-trends, such as increased education levels, the enfranchisement of southern blacks, the relaxation of state residency requirements, and congressional passage in 1993 of the "Motor Voter" law.

To Thomas Patterson of the "Vanishing Voter Project" at Harvard's Shorenstein Center, the decline in turnout is alarming, since, as he writes in *The Vanishing Voter*, "electoral dysfunction typically stems from small electorates." Where voter turnout is limited, the electorate is more likely to be dominated by "small and obdurate electorates" composed primarily of "hard-core partisans." Patterson attributes the decline in campaign involvement and voting to a number of factors, most notably the disappearance of clear partisan divisions, increasingly protracted campaigns that lack suspense and fail to engage the electorate, and the rise of negative journalism.

The discovery of a link between low voter turnout and the declining strength and relevance of American political parties is not exactly new. Political parties are democracy's only effective mechanisms for linking large numbers of citizens to political leaders. Unlike interest groups, which promote specific issues, parties recruit and field candidates and seek to maximize their vote percentages by making appeals to the electorate based upon broad notions of the common good. Although in the American context such appeals have rarely been shaped by rigid ideologies, historically the parties have nonetheless served as reliable electoral guides for ordinary citizens, irrespective of their level of political interest.

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During the relatively lengthy period when the two major parties were essentially distinguished by economic issues, voters could identify easily with one or the other. This process both simplified voters' decisions and gave them a stake in the outcome of elections. According to Patterson, the rise of social issues in the 1960s helped split partisan loyalties, which, in turn, led to a dramatic rise in the number of self-identified independents. With parties unable to mobilize this large group of voters to support them consistently, ticket-splitting increased and turnout fell.

At the same time new social issues were arising, the parties were losing their ability to control the nominating process. Following the bitter 1968 campaign for the Democratic party presidential nomination, the process was "reformed" and, ultimately, transformed for both parties. The so-called Reform Democrats of the late sixties and early seventies took the selection process from the hands of party regulars—who were committed to winning elections and safeguarding the party's future viability—and placed it in the hands of "the people," who are asked to select candidates in statewide primaries. Such primaries lack both the cues that would make voters' choices intelligible and the means to hold the winners accountable for their campaign promises.

With voter turnout in primary campaigns dramatically lower than in general elections, power has shifted to a new set of elites: campaign consultants, journalists, and issue advocates. This, in turn, has accelerated the public's loss of interest. The reforms that began in the late sixties have also resulted in an increasingly lengthened campaign season, which, as the Voter Project's study indicates, has diminished the interest of average citizens in the campaign itself.

The 1960s also brought about the notion that the media's responsibility was not so much to report the news as to interpret it. Patterson dates much of this to the advent of evening news programs, when reporters were told, in the words of one of the original producers at NBC, that each story should display the attributes "of fiction, of drama." Vietnam and Watergate set the stage for the media's perpetual cynicism. (Patterson cites an example: Peter Jennings described the 1996 GOP nominating campaign as having "enough mud tossed around to keep a health spa supplied for a lifetime." But in fact, a study by media analyst Robert Lichter found that over half of the ads and two-thirds of stump speeches in that campaign had a positive tone.)

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Above: A voting machine in 1972. Opposite: Another in 1928.

In addition to the declining role of parties, lengthy campaigns, and cynical reporting, Patterson points to more tangible factors that reduce voter participation, and advocates possible reforms, such as more relaxed registration requirements, election holidays, and extended polling hours. But he concedes that voter decline has coincided with the 1993 Motor Voter Act and with loosened restrictions in state registration systems, though it's possible they have helped stem further decline.

Patterson also considers the impact of two systemic factors, namely, the Electoral College (which suppresses turnout in non-competitive states), and the frequency of U.S. elections compared with other democracies. Although his focus is on presidential elections, he could easily have added the decline in the number of competitive congressional districts engineered by incumbents to protect their seats, which has undoubtedly suppressed voter turnout in non-presidential years.

Matthew Crenson and Benjamin Ginsberg, both of Johns Hopkins University, also link the drop in voter turnout (which they dub "elections without voters") to the decline of political parties and the reforms that helped bring about that decline. In *Downsizing Democracy*, they argue that since the late 1960s the parties have been captured by advocacy groups whose interest is not in mobilizing mass support but rather in achieving their ideological objectives through the courts and the federal bureaucracy:

> Having established their political influence in the absence of comprehensive electoral mobilization, the

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> liberal heirs of the New Politics were understandably reluctant to place it at risk by issuing appeals for mass activism. They were likely to flourish politically in a low-turnout environment.

The authors are no less critical of conservatives, whom they accuse of imitating the public-interest-group model pioneered by liberals and doing "little or nothing in the 1980s and 1990s to bring new voters into the electorate." (They contend—without offering any documentation—that the Republican party's new constituencies, including the Christian right, were already involved in the process.)

Declining electoral participation is but one manifestation of a much larger problem Crenson and Ginsberg have identified for American democracy: namely, the lack of interest among political elites in drawing ordinary citizens into democracy's workings. Over the past century, citizens have been relegated from their multiple public roles as soldiers, bondholders, and administrators to more passive consumers of government services. In the process, they have been marginalized politically even as the competition among elites has increased (as reflected in enhanced levels of partisan conflict and the growing number of organizations represented in Washington). To Crenson and Ginsberg, the nation's leaders themselves are responsible for the overall decline in political consciousness and civic participation:

> Citizens become politically engaged because states and political elites need them and mobilize them. If citizens remain passive, politically indifferent, or preoccupied with private concerns, the reason may be that our political order no longer provides incentives for collective participation in politics.

Vanishing voters, downsized democracy—just how much trouble are we in? In one of the early studies of American voting behavior in the 1950s, a group of political scientists scandalized their profession by noting the value of apathy. They argued that it reflected broad satisfaction with the status quo and served to keep in check an excessive number of demands that might cripple the government's ability to function effectively.

Getty

Florida voting in 2002.

Whatever the merits of that particular argument, it is certainly true that a relatively undemanding public, preoccupied with the everyday concerns of work, family, and community, is far superior to its antithesis, where politics is so all-consuming and the stakes are so high that the losing side is prepared to take to the streets. It is telling that the authors of both of these books disparage the passivity with which Americans and their leaders accepted the Supreme Court decision that ended the 2000 election. In the words of Crenson and Ginsberg, "neither candidate sought to mobilize public support during the post-election battle in Florida." But would mass demonstrations, as advocated by Jesse Jackson and others, really have been a sign of democratic health?

As Patterson's example of the Electoral College makes clear, Americans, practical to a fault, will not turn out in substantial numbers to vote when it is unlikely that their vote will materially affect the outcome. While we can all deplore the lack of civic-mindedness that low voter turnout partially reflects, it is hardly a threat to the well-being of the republic. Furthermore, with so many critical issues taken off the electoral table and turned over to unelected bureaucrats and judges (a process Crenson and Ginsberg detail in one of the more interesting parts of *Downsizing Democracy*), is it any wonder it has become more difficult to mobilize the electorate?

Is further decline inevitable? The authors of these books believe it is. On the one hand, tinkering at the margins with such reforms as election holidays and later poll closings, as Patterson advocates, is unlikely to stem the tide. But surely September 11 revived at least the possibility that a "post-post-industrial" politics can emerge—one that realigns the political parties around issues related to domestic security and civil liberties and that energizes the electorate. If so, perhaps the "vanishing voter" will yet return. ♦

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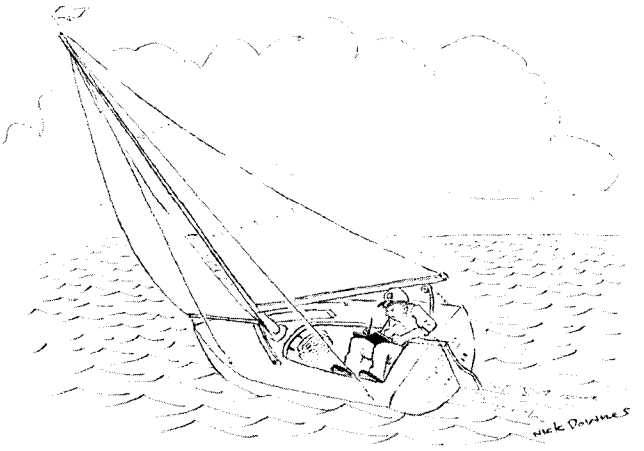

"It's been one hour since I set sail on this solo, round-the-world voyage. One hour since I've stood on solid ground, or, for that matter, heard another human voice! One hour, in fact, since I've so much as laid eyes on another human being!!"

Books in Brief

As we go to press, three books by WEEKLY STANDARD authors are among the top hundred bestsellers on *Amazon.com*. Two of them we mentioned a couple of weeks ago: *The Right Man: The Surprise Presidency of George W. Bush* by contributing editor David Frum, and *Of Paradise and Power: America and Europe in the New World Order* by contributing editor Robert Kagan.

The third is *The War Over Iraq: Saddam's Tyranny and America's Mission* (Encounter, 153 pp., $25.95), co-authored by THE WEEKLY STANDARD's editor William Kristol and the *New Republic*'s Lawrence F. Kaplan. The book presents in strong terms the immediate dangers posed by Iraq—and it goes on to point out, in even stronger terms, the global consequences if we do not act against Saddam's tyranny. Shall we encourage dictators and terrorists around the world to believe America can be defied and attacked at will? What responsible president could allow our safety to be compromised this way?

But Kristol and Kaplan don't argue solely from America's own safety. This nation owes the world more than self-interest, and we have a duty to increase democracy and freedom wherever we can. "The mission begins in Baghdad," Kristol and Kaplan write, "but it does not end there." Rightly understanding the world and itself, America is capable of projecting strength in real power politics and simultaneously aiming for high moral ends. "Duly armed," *The War Over Iraq* concludes, "the United States can act to secure its safety and to advance the cause of liberty—in Baghdad and beyond."

A few years ago, THE WEEKLY STANDARD ran an essay by Tracy Lee Simmons about *Amazon.com*. Among other things, the essay teased authors for Amazon-envy, compulsively comparing every hour their sales ranks with their friends'. This isn't something we want to encourage among Kagan, Frum, Kaplan, and Kristol (particularly when my own book of poetry has fallen to be the 480,320th bestseller). But the appearance of three WEEKLY STANDARD books in the top hundred seems worth notice.

—*J. Bottum*

***The Woman Who Wouldn't Talk* by Susan McDougal (Carroll & Graf, 336 pp., $25).** If Michael Kinsley can admit he didn't read the books he was assigned as the judge of a major book prize, it's hard to hold reviewers to the stern, old-fashioned demand that they actually study the book they've been asked to review. Still, you hate to see a reviewer get caught as badly as Beverly Lowry was with her review in the *New York Times* of Susan McDougal's memoir *The Woman Who Wouldn't Talk*.

The book-discussion website *Mobylives.com* deserves credit for promoting the *Arkansas Democrat-Gazette* column in which Gene Lyons took note of Lowry's errors and peculiar Southern style of writing. "Moonbeams and Magnolias at the *New York Times*," he called it.

Lowry wrote, "The future president was governor and the McDougals owned a bank and a savings and loan and were buying and selling land and, like a lot of other people they knew, making money hand over fist." Is this, Lyons asks, supposed to imply that the Clintons made money on Whitewater? In fact they lost $43,000. Later in her review, Lowry commiserates with McDougal for her felony convictions on obstruction of justice and criminal contempt—of which McDougal was actually acquitted, in the scene that is the climax of *The Woman Who Wouldn't Talk*. (The *Times* ran a correction about this point on February 2.)

Lowry also asserts that the reason McDougal tried to shelter the Clintons was that she was in love with Bill. It's almost overkill when Lyons observes that McDougal vehemently denies this explanation—portraying the president in her book as a "glib horn-dog who looks awful in jogging shorts."

Lyons concludes that Lowry "appears to have skimmed the opening chapters for information confirming her own loopy notions about 'girl children from the Deep South'—she's the kind of Professional Southerner who peddles moonbeams to Yankees—then winged it." As for her future reviews, his advice is simple. "Yo, Beverly. Next time, read the damn book."

—*Beth Henary*

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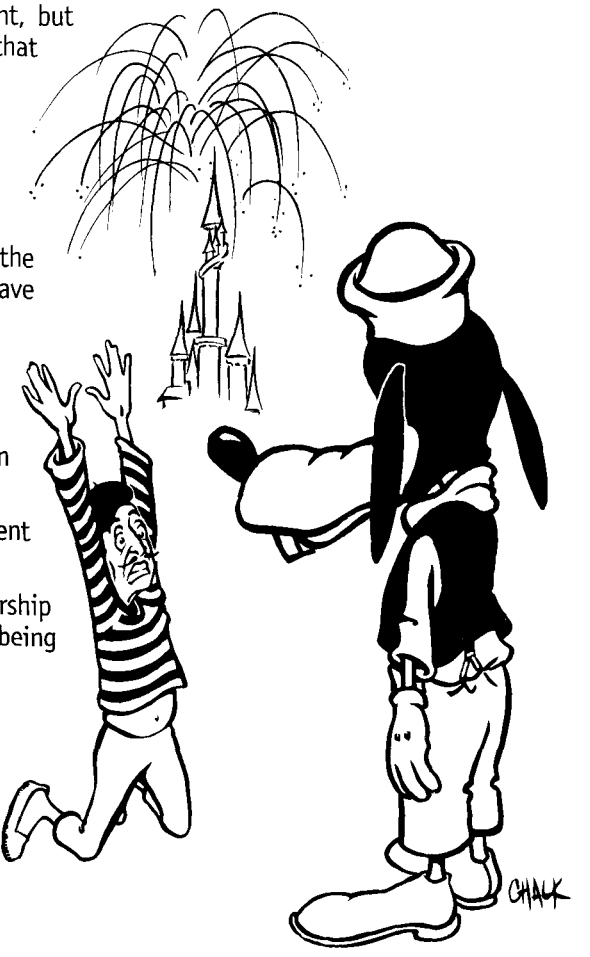
The following is an e-mail circulating in the military community:

Not a Parody

French Military History in a Nutshell

- Gallic Wars - Lost. In a war whose outcome foreshadows the next 2,000 years of French history, France is conquered by, of all things, an Italian.
- Hundred Years War - Mostly lost. France is saved at last by female schizophrenic who inadvertently gives rise to the First Rule of French Warfare: France's armies are victorious only when not led by a Frenchman.
- Italian Wars - Lost. France becomes the first and only country ever to lose two wars when fighting Italians.
- Wars of Religion - France goes 1-5-4 against the Huguenots.
- Thirty Years War - France is technically not a participant, but manages to get invaded anyway. Claims a tie on the basis that eventually the other participants started ignoring her.
- War of the Augsburg League/King William's War/French and Indian War - Lost, but claimed as a tie. Francophiles the world over label the period the height of French military power.
- War of the Spanish Succession - Lost. The War also gave the French their first taste of a Marlborough, which they have loved ever since.
- American Revolution - France claims a win even though the English colonists saw far more action. This is later known as the "de Gaulle syndrome," and leads to the Second Rule of French Warfare: France wins only when America does most of the fighting.
- French Revolution - Won, primarily because the opponent was also French.
- Napoleonic Wars - Lost. Temporary victories due to leadership of a Corsican (remember the First Rule!), who ended up being no match for a British footwear designer.
- Franco-Prussian War - Lost.
- World War I - Tied and on the way to losing, France is saved by the United States.
- World War II - Lost. Conquered French liberated by the United States and Britain just as they finish learning the Horst Wessel Song.
- War in Indochina - Lost.
- Algerian Rebellion - Lost. This marks the first defeat of a Western army by a non-Turkic Muslim force since the Crusades, and produces the First Rule of Muslim Warfare: We can always beat the French. This rule is identical to the First Rules of the Italians, Russians, Germans, English, Dutch, Spanish, Vietnamese, and Eskimos.
- War on Terrorism - France, keeping in mind its recent history, surrenders to Germans and Muslims just to be safe.

Post script: Did you hear they canceled the fireworks at Euro-Disney? The French kept surrendering.



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The End of Tax and Spend

Jennifer Roback Morse is a research fellow at the Hoover Institution.

Let me start with a disclaimer: I am philosophically a small-government person. So I naturally dislike California governor Gray Davis's $10 billion tax hike. But the Davis plan is bad news, even if you are a big-government person. He claims the state needs a more rational, stable source of revenue. But part of his plan adds to the instability, and the other part is regressive. **California's problems are only the most dramatic among the other states facing budget catastrophes.** Looking at California's crisis can give us an idea of what lies ahead for states across the country.

Davis proposes two major tax increases: (1) personal income tax increases for the top earners of $2.58 billion and (2) a sales tax increase to generate $4.58 billion. The sales tax hike is regressive. The personal income tax increases are progressive but add to revenue instability.

California's tax revenue has been volatile because the incomes of the rich have been unstable. The state treasury did well during the dot-com boom of the nineties, collecting an unprecedented $45 billion in revenue from personal income taxes in the fiscal year 2000–2001. The next year, treasury receipts crashed right along with the stock market.

If government is going to take an activist role in health and welfare, of course, it needs a reliable source of revenue. The "safety net" ought to be safe.

But as things stand, the state is vulnerable to the fortunes of the rich because the rich pay most of the taxes. The top 11 percent of taxpayers reported 54 percent of the total income in the state and paid 80 percent of the personal income taxes. Usually, liberal Democrats call attention to the overwhelming percentage of personal income earned by only a handful of people. Republicans and Libertarians are left to observe that the same handful of people pay the lion's share of the taxes.

So it was a bit surprising to see Governor Davis crying crocodile tears over the rich paying the majority of taxes while discussing his plan to balance the state's budget. We can hardly believe that Davis is about to create a tax benefit for Jerry Yang, Barbra Streisand, Larry Ellison, and all the other rich people who fund the state treasury.

No, indeed. The "we need a more stable source of revenue" rhetoric is designed to soften us up for the sales tax increase, which is a massive tax increase on the poor and middle class. **The Davis plan is tax increases for the poor to fund programs to help the poor, which doesn't add up.**

The Davis budget fiasco illustrates that the real issue is the size and function of government. If government is to help the poor, it can't do everything else too.

By taxing rich people, the government hitches its wagon to their star. If the rich flourish, the government can be flush with revenue. If the rich fail, so does the government. The alternative to taxing the rich is to tax everybody. California is at the end of the tax-and-spend road.

— Jennifer Roback Morse

Paid for by the Hoover Institution, Stanford University.

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Small business and consumer voices call on the FCC to save competition.

National Federation of Independent Business
"The FCC's rulemaking has the potential to limit the benefit of the Telecommunications Act of 1996 by reducing the number of competitors willing to serve small-business users.... UNE-P market share is often highest in rural states where competition for the small business market might otherwise be scarce. Further, a study recently released by Economics and Technology, Inc. reveals small businesses could save between $2.2 billion and $6 billion a year in lower telephone bills if competitive providers maintain full access to UNE-P."
Letter to FCC, 2/5/03

International Brotherhood of Electrical Workers
"States where competition for local service has been allowed to proceed are seeing an increase in investment and jobs, and that's what we need for the long term good of the industry."
News Release, 1/15/03

Ohio Consumers' Counsel
"Any movement to make the UNE-P unavailable, or to limit its availability, will harm the nascent mass market competition now being seen in many areas throughout the nation.... If the UNE-P is eliminated, the impact on residential competition will be devastating."
Letter to the FCC, 12/16/02

Small Business Survival Committee & American ISP Association
"We strongly believe that any attempt to abort competition in either the voice or the high speed data industries will create a drag on the economic recovery and will be felt particularly hard among small businesses who are finally seeing the benefits of true competition in local phone service."
Letter to FCC, 2/4/03

Leading Economists William J. Baumol, William Lehr, Janusz A. Ordover, Robert D. Willig, Laurence J. Kotlikoff, John W. Mayo, Frederick R. Warren-Boulton
"It is only fantasy that foresees a new wave of investment as the result of a policy turnabout from competition to renewed protection of monopoly local telephone companies."
Letter to FCC, 2/5/03

AARP
"Dismantling competition in local telephone service will do the 50+ population more harm than good."
News Release, 1/27/03

National Small Business United
"A move to abandon the UNE-P system and ignore the sentiments of state public utility commissions would reverse gains in competition.... Your choice seems clear, either continue on the path of telecommunications competition that is finally bearing fruit or abandon the market to a handful of local monopolies."
Letter to FCC, 1/20/03

National Association of State Utility Consumer Advocates
"Consumers have just begun to receive the benefits of an open, competitive local telephone market. The last thing they need is a move that opens the door for unregulated monopolies providing fewer choices at higher prices."
News Release, 1/27/03

Office of Advocacy U.S. Small Business Administration
"Removing the UNEs from the list is likely to chill competitive entry and set the market in reverse, perhaps ensuring a continued monopoly at the local wireline level."
Letter to FCC, 2/5/03

Federal Communications Commission Local and State Government Advisory Committee
"In fact, this policy was proposed, and rejected, by Congress in its last session. Therefore, it would be troubling to see the Commission adopt such a policy by executive fiat."
Letter to FCC, 1/28/03

National Association of Regulatory Utility Commissioners
"State flexibility to maintain une-p as well as the ability to add to any national une list is critical to keeping competition on track."
Letter to FCC, 2/5/03

The above quotes appear in the public domain and do not necessarily reflect membership in Voices for Choices.

We're Voices for Choices. We believe the best way to protect America's phone system and give consumers lower prices, better service and more choices is to make the giant Bell monopolies keep the promise of the Telecommunications Act. Go to www.voicesforchoices.com for more information.

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